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THREE WORKING FEE SYSTEMS IN DISPERSED RECREATION

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PROFESSIONAL DEVELOPMENT PROGRAM FOR
OUTDOOR RECREATION MANAGEMENT

CLEMSON UNIVERSITY

CLEMSON, SOUTH CAROLINA

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PREPARED BY:

PETER M. BROST, DISTRICT RANGER
GOLD BEACH RANGER DISTRICT
SISKIYOU NATIONAL FOREST
1225 SOUTH ELLENSBURG AVENUE
GOLD BEACH, OREGON 97444

APRIL, 1985

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ABSTRACT

In the past several years there has been an increased interest in recreation user fees. Traditionally government agencies have charged fees for use of developed sites such as campgrounds, picnic areas, boat ramps, and so forth. Fees for recreation use outside developed sites - dispersed recreation - are unique. These fees usually are required because of special services that are provided by the managing agency.

This paper examines three fee systems that are currently being operated by two government agencies. All three involve water-based, non-commercial, dispersed recreation.

The paper identifies and discusses the problems, benefits, and opportunities that may be associated with this type of fee system, and makes recommendations for managers who elect to implement a fee system.

AUTHOR: Peter M. Brost, District Ranger
Gold Beach Ranger District
Siskiyou National Forest
1225 South Ellensburg Avenue
Gold Beach, Oregon 97444

TITLE: Three Working Fee Systems in Dispersed Recreation

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CHAPTER I

INTRODUCTION

Increased interest and emphasis has been placed upon various recreation user fees by the current Administration, the recreation industry, and the Forest Service in the 1980's. Fee systems have been expanded and fees increased in traditional areas such as campgrounds and developed recreational facilities during this time. However, a great amount of Forest Service recreation use takes place outside of developed sites and is termed dispersed recreation use by the Agency. In this area of dispersed recreation very little direction on special user fees exists. Therefore, few National Forests throughout the country charge fees for the many special services necessary to facilitate various types of dispersed recreation.

In 1984, the Siskiyou National Forest initiated a fee application and reservation system for non-commercial river floaters on the Wild Section of the Rogue River in southwestern Oregon from May to September. This is the only Forest Service-managed river to have such a fee system in the United States and makes the Siskiyou one of the very few Forests to have a fee for any type of dispersed recreation service. In fact, so few fee systems for dispersed recreation on National Forest lands are in existence today that those which do occur are unique.

A search for other fee systems charging noncommercial users involved in some form of dispersed recreation yielded very little. The only known fee systems fitting this category existing today on Forest Service-administered lands are the Rogue River system previously mentioned and a reservation fee system for users of the Boundary Waters Canoe Area Wilderness on the Superior National Forest in Minnesota.* The only other known similarly related fee system is administered by the Bureau of Land Management (B.L.M.) on the Moab District in Moab, Utah where a reservation fee is charged to users of certain sections of the Green, Colorado, and San Juan Rivers.

Charging fees for various types of special services associated with dispersed recreation in the National Forests presents a variety of problems, benefits, and opportunities for recreation resource managers. This paper will explore the three fee systems named above, discuss the associated problems, benefits, and opportunities, and assemble pertinent data on the subject.

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* In the final stage of preparation of this report, an additional fee system was discovered on the Hiawatha National Forest in Michigan. Time did not allow investigation.

PROBLEM STATEMENT

Upon receiving direction to implement a fee system on the Rogue River in September 1983 for the 1984 season, Siskiyou National Forest personnel could find no specific direction or examples to follow to design such a system. Much new ground was explored. There was concern and disagreement over terminology, authority, and amount of fee. No precedent was found to follow. After successful implementation in 1984, the Gold Beach Ranger District, which has management responsibilities for the Rogue River, received many inquiries from other Forests that had the same questions we had asked ourselves a year earlier:

"What type of fee do you have?"

"How much do you charge?"

"What is the authority for charging?"

"Can the Forest keep the money collected?"

"How did the public react?"

It appears recreation managers have an interest in and need for fee systems in specific instances, but have little opportunity to compare and analyze the subject with tried examples in order to draw their own conclusions and make rational decisions.

OBJECTIVES

It was the author's original intent to discuss only the Rogue River system in this paper. Due to a lack of documentation on the subject, however, and after discovering the uniqueness of this type of management action, the study was expanded to identify and discuss the three existing fee systems mentioned in the Introduction. As such, the objectives of this paper will be to:

1. Consolidate pertinent data on the subject of special recreation fees so the interested recreation manager can have an initial focal point to explore the subject and have a majority of the general questions answered.

2. Provide examples of current operating fee systems.

3. Demonstrate the problems, benefits, and opportunities that may be associated with a fee system.

4. Make recommendations for managers who elect to implement a fee system.

DELIMITATIONS AND ASSUMPTIONS

This paper is intended to gather information, answer often-asked questions, and clarify policy. It is not an attempt to set policy nor to encourage or discourage the establishment of any type of recreation fee. This paper will discuss fees for special services that are provided by the government and has no relationship to, nor should it be confused with, the draft bill entitled "National Forest Recreation Fee Act of 1984" (see Appendix R).

It is assumed that:

1. Policy does exist.
2. Policy is in the process of change as of this writing.
3. Policy will change further, and direction regarding recreation fees will become more specific in the next 2-3 years.
4. Recreation managers want to learn more about existing fee systems in order to make responsible decisions.

CHAPTER II

REVIEW OF LITERATURE

As stated in Chapter I, one of the objectives of this project is to pull together for other managers what little information, data, and direction exists on this subject. Although not expecting to find a lot of material, the author was surprised to discover how little applicable information actually existed. Literature searches identified many research projects on "willingness to pay" philosophies, but nothing on actual Forest Service fee systems.

Several magazine articles discussed the concept of Forest users paying fees. Both the research and the magazine articles indicate the public is willing to pay a reasonable fee for some services. Comments made by knowledgeable and respected leaders in the recreation industry at the American Forestry Association's Annual Meeting in October, 1984, in Portland, Oregon, underscore this finding.

> "Recreationists would often willingly pay more rather than suffer the loss of valued public recreation services." Lawrence Jones, President, Coleman Company.
>
> "User fees are bound to become more and more a management tool, and may escalate from reasonable charges to recreation for profit." "Recreationists can afford to and want to pay for services that heighten their enjoyment." Wilbur F. LaPage, Director of Parks & Recreation, New Hampshire.

> "We can no longer afford the view that the recreation experience should be free of both cost and regimentation." - Raymond Housley, Deputy Chief, Forest Service.
>
> "[There is] need for a sensible system of user fees to provide the funding for recreation management." Derrick Crandall, President, American Recreation Coalition.

Specific recommendations regarding establishment of fee systems were made by Paul C. Pritchard, President, National Parks and Conservation Association. These comments recommended fees not be so high as to limit access; should not be selfsupporting; should not be expected to replace federal funds; the collecting agency should keep the fees; and, the fee should be comparable to those on private land.

The Forest Service Manual provided little direction on how or when to initiate any type of fee related to dispersed noncommercial recreation, or for related special services. Because of the scarcity of applicable printed material available, nearly all data presented in this report will be the result of personal communication with knowledgeable individuals who are informed or involved in some aspect of a dispersed recreation fee.

CHAPTER III

COLLECTION OF DATA

This chapter contains a description of the Rogue River, Bureau of Land Management (BLM), and Boundary Waters Canoe Area Wilderness (BWCAW) fee systems. They are listed chronologically based on the years of implementation, which are 1984, 1983, and 1982, respectively. Since each of the individual fee systems was designed to resolve sitespecific problems and circumstances, the detailed workings of each are quite different. However, basic similarities exist. The daytoday administrative details of each are very complex and it would serve no purpose to include this degree of detail here. The description in this chapter will provide an overview of each fee system. Interested readers should contact each administrative site directly in order to get the degree of detail that is desired.

All three of the fee systems described in this report relate to noncommercial users, and in no way affect, or should be confused with, commercial users such as permittees, guides, outfitters, and so forth.

Rogue River

In September 1983, the Chief of the Forest Service granted Region 6 (Rogue River only) authority to charge non-refundable reservation fees for non-commercial use permits on the grounds that "(1) reservation fees are appropriate in situations where substantial numbers of people are using a river, (2) the carrying capacity of the river is being reached, and (3) the costs of a permit reservation system are significant." Section 4 of the Land & Water Conservation Fund Act (L&WCF) is the enabling authority for charging the reservation fee (see Appendix A).

The first step in designing the reservation fee system was to identify the management objectives the fee system was to accomplish. The first objective was to increase returns to the U. S. Treasury through the concept of "users paying their way". A second objective was to develop a fee system that would serve as a management tool in administering the river resource and reduce existing problems with the non-commercial permit system. The third objective was to develop a fee system that would benefit river users.

River managers developed and compared four separate fee system alternatives (see Appendix B). The first alternative charged only an application fee in the annual computerized permit selection process. The second alternative charged a fee per person in the party size of each application in the selection process. The third alternative charged a permit fee when actual use occurred. The final alternative charged fees on two levels, an application fee and a per-person fee at the time the permit was confirmed.

In evaluating the alternatives, River managers recognized that one-level fee systems, while being the simplest methods for collecting fees, were certainly not the most equitable to all users. Therefore, they were not particularly defensible. River managers also recognized that the two-level fee system offered the most advantages to the agency as well as river users. In the bi-level fee system, river users pay additionally in proportion to their participation in the permit procedure. In this way, all who participate in the selection process would pay the same amount, and those who secure permits pay in proportion to the number of persons who take the trip. Fee amounts for the bi-level system were determined by dividing the cost of the procedure (selection process/permit issuance) by the number of anticipated users. The monetary objective was to generate only the amount necessary to defray the direct costs of operating the permit system. The annual selection process costs were $10,000, the anticipated number of applicants was 5,000; so the first level of the system charged $2.00 per application. Permit issuance costs were $30,000. The anticipated number of users was 6,000; so party leaders paid $5.00 per party member in the second level of the system (see Appendix B).

As a result, an applicant on the Rogue River pays $2.00 to apply for a trip for his entire party. Each person can only apply one time. If selected through the lottery process, the party leader is responsible for submitting $5.00 per person in the party to secure and reserve that specific date and party size for their river trip.

In terms of results, the two-level reservation fee system collected slightly more than $40,000. Costs were estimated to be $42,000. There

were 300 fewer applications than were expected, even though the costs of the selection process were constant. There were also 325 fewer actual users during the regulated period than were anticipated. These slight deficits, however, were balanced by paid non-use, a by-product of the non-refundable fees which occurred when paid use was canceled or became no-shows. Therefore, the goal of increasing revenue to the U. S. Treasury and defraying the costs of the program was met quite adequately.

The second and third objectives, those of designing a fee system which would be a management tool for agency and user benefit, were recognized as highly successful. The number of applications for the annual computerized selection process had been growing at an average rate of 2,000 per year, from 1,400 in 1978, the first year of regulated use, to 9,400 in 1983, the last year prior to the reservation fee system. In 1984, due partly to the reservation fees, and partly to a change in Party Leader/Alternate status in the drawing, the number of applications dropped to 4,678, about half the total of the previous year. This 50 percent reduction in the number of applications greatly facilitated the selection process for the agency and increased the odds of gaining a permit for the applicants.

In 1983 the ratio of success in the drawing was 1 in 15 chances; in 1984, the ratio was 1 in 9. A second result which was of benefit to both the agency and river users alike was the decrease in non-commercial no-shows of 50 percent. In years prior to the reservation fee system, party leaders had only to provide the agency with the names and addresses of party members to qualify for confirmation of the permit. In 1984, party leaders

were required to pay for each party member listed on the trip manifest at the time of confirmation. As a result, more party leaders confirmed for smaller, more practical parties, allowing the agency to reallocate the unconfirmed float openings earlier than ever before and eliminating large numbers of no-shows. See Appendix C for application and confirmation forms.

Bureau of Land Management, Moab District

The fee system described below applies to specific sections of the following rivers, all administered from the Moab, Utah, District BLM office:

Green River (Desolation - Gray Canyon, 76 Miles)

Colorado River (Westwater Canyon, 17 Miles)

San Juan River (Sand Island to Clay Hills Crossing, 56 Miles)

The BLM fee system on these three rivers is a user fee, and conforms with the direction provided by BLM's Special Recreation Permit Policy (see Appendix D). One of the objectives of fee collections under this Policy is to recover agency costs.

Under BLM's system, river-runners request a permit application package for any of the three rivers, and apply for a launch date. There is no fee associated with this request and application. BLM then selects applicants through a drawing process (or on a first-come, first-served basis for San Juan River) and the successful applicants are sent a bill for payment of the non-refundable fee, which is slightly different for each river. The successful applicant must return the fee to BLM three weeks before the launch date. When the fee is received by BLM, a river launch permit is sent to the applicant (see Appendix E).

Private river permits have been required for Desolation-Gray, Westwater, and the San Juan River since 1974. Permit fees were required and collected during the 1983 and 1984 use seasons. Permit fees charged during 1983 amounted to $1.00 per passenger day. Fees were standardized to

reflect an average trip length of 5 days for Desolation-Gray, 1.5 days for Westwater, for the full San Juan trip. In 1984, the Moab District charged 50 cents per passenger day in conformance with the fee schedule published with BLM's Special Recreation Permit Policy. This fee schedule establishes private permit fees of $1.00 for 1985 and $1.50 for 1986. During Fiscal Year '83 the district collected $43,100 in private river permit fees. Fiscal Year '84 revenue is expected to be in the neighborhood of $22,000 due to the lower passenger day fee. Fiscal Year '86 revenue should exceed $60,000.

On a District-wide basis the BLM's cost of managing their river program has been about $150,000 a year. This includes issuing permits, collecting fees, conducting launch site checkins, river patrol, campsite clean-up, boat ramp maintenance, and ranger station upkeep. Management of commercial river use represents about 25 percent of the cost.

Approximately $15,000 of the amount spent managing non-commercial river use is associated with fee collection. The total estimated amount for issuing non-commercial river permits and collecting fees is approximately $45,000.

Boundary Waters Canoe Area Wilderness (BWCAW),
Superior National Forest

The Superior National Forest has required travel permits for entry into the BWCAW since 1966. In 1976 the travel permit system became the method by which a quota system for entry into the BWCAW was established. This system limits overnight groups by entry point per day.

The 1976 entry quotas were established for overnight campers to reduce competition for the limited number of established campsites and to avoid unauthorized camping at undeveloped sites. In 1979 entry quotas were also established for most overnight motorboat travel in the BWCAW. The motorboat quotas were intended to keep motorized use from exceeding the 1976, 1977, and 1978 levels of use. This was a specific requirement of the 1978 BWCAW Wilderness Act.

Visitors traveling within the BWCAW between May 1 and September 30 are required to have a BWCAW permit in their possession. Between 35,000 - 40,000 permits are issued annually. These permits can be obtained free of charge from any of 8 Forest Service offices, or from approximately 80 cooperating businesses (resorts, outfitters, stores, etc.) in the area. These permits allow a maximum size party of 10 people to enter the BWCAW only on the date, and through the entry point, specified on the permit.

A visitor to BWCAW has 87 entry points to choose from. As would be expected, some are more popular than others, and in order to be assured of an opening on the day, and at the entry point desired, the BWCAW has a reservation system.

Superior National Forest personnel estimate that the permit and reservation systems cost approximately $160,000 per year to operate. The reservation system above is estimated to be 50% of the total cost, or about $80,000.

In the BWCAW Implementation Plan, approved 10/27/81, a decision was made to:

> "Establish a nonrefundable fee for each party making overnight reservations. This is being done to discourage those who make multiple reservations as a tactic to assure entry which results in many no-shows. Permits applied for less than 48 hours before the permit date will not be charged this fee."

The proposed date for this action was February 1, 1982 (see Appendix F).

The authority enabling this reservation fee for overnight use on the Superior National Forest was the Fee and Charges Act of 1951 (see Appendix G) and OMB Circular No. A-25 (see Appendix H).

BWCAW managers determined the fee would be non-refundable, and would be $5.00/reservation for each party. The amount of the fee was determined by dividing the anticipated number of reservation applications (20,000/year) into the Forest's expected cost of making the reservations ($80,000), or $4.00/reservation. In the original system in 1982, $1.00 was added to each reservation fee, making a total fee of $5.00, which allowed the applicant to make one change in the reservation (i.e. entry point, date, party size, etc.) at some time prior to use. The provision allowing this change has since been discontinued (see Appendix Q).

In designing their fee system in 1981, BWCAW managers established two criteria for determining the amount. They wanted the fee to be high enough to reduce no-shows; and they wanted the fee to recover 100% of the cost of administering the reservation system. The $5.00 satisfied both requirements (see Appendix I).

Requests for a reservation must be made in person or by mail. Telephone requests initially were not allowed since the $5.00 fee had to accompany the request. (In order to better serve the public, the Superior National Forest was given temporary authority in 1984 to accept reservations by telephone using the caller's credit card for payment. This practice is currently being evaluated by the Forest.) Reservation requests may be made to any of 8 Forest Service offices, or through any of the 80 Forest Service Cooperators for any entry point. Unreserved permits, if available, can be picked up in person within 48 hours before the entry date without paying a reservation fee.

In 1982, the first year of implementation, the number of reservation requests dropped from 23,000 to 17,000 and has remained between 16,000 - 18,000 since that time. Overall use remained essentially the same. The no-show rate decreased from 35% to 13%. Administrative costs were offset by depositing $85,000 in the U. S. Treasury.

CHAPTER IV

Analysis of Data

This chapter will explore the individual components of the three fee systems. It is hoped that there will be opportunities for comparison and for highlighting the similarities and differences. This chapter will also introduce additional perspectives resulting from the literature search and personal conversations with others.

USE LIMITATIONS

One thing that is readily apparent in reviewing the three fee systems is that use limitations were already in place prior to charging any fee. In each case, the purpose of limiting the amount of users was to:

(1) allow each user the opportunity to experience a certain degree of solitude in a primitive or natural setting, and/or

(2) protect the physical resources from excessive impacts.

Since the three areas were either at or near capacity, a special service was provided which allowed the users to "reserve" a specific time and/or place to achieve their social experience. The experience could have been gained without the reservation, but it would have required more waiting, uncertainty, and apprehension about when, or if, the user would be allowed entry. This is not a desirable way for recreation managers to enable a Forest visitor to start an experience.

The three systems that were examined assured the users well in advance of two things:

(1) Even with great interest and competition from others, they would be guaranteed a place on that river or lake.

(2) Once they were on that river or lake, they were assured they would have the opportunity to experience a certain degree of solitude.

Thus, the three reservations systems demonstrate one way recreation managers can allow Forest users the opportunity to start positive planning

well in advance of a trip, and at an expectation level that is close to accurate.

AUTHORITY

Legal authority for charging fees is a topic of great concern to managers. The question has caused confusion, disagreement, and misunderstanding. Legal counsel is always part of the resolution - if there is a resolution.

The fee systems examined in this report cite three different authorities enabling each to collect a fee. The Rogue River uses the Land & Water Conservation Fund Act, Section 4c (see Appendix A). This legislation allows the managing agency to collect a fee for "specialized services" (Section 4b) that are provided to the public. The Rogue River reservation fee was authorized by the Chief because substantial numbers of people were using the river, the carrying capacity was reached, and the costs of the reservation system were significant. The L&WCF authority allows only the recovery of the direct costs of providing the "specialized service". Thus, in the case of the Rogue River, two forms of "specialized service" are provided and charged for - an application and a reservation service.

The BLM also used the Land & Water Conservation Fund Act as its authority for a fee system. However, the BLM also promulgated rules under 43 CFR 8560, creating a Special Recreation Permit Policy that provides direction regarding both commercial and non-commercial recreation permits (see Appendix D and J). This Policy was needed by the BLM because of deteriorating resources, user conflicts, and increased concern for safety. The Policy recognizes areas requiring special management to protect the resources or control visitor use. The Special Recreation Permit Policy is so specific as to identify user day fees for these "special management procedures" through 1986.

The authority used by the Superior National Forest allowing the BWCAW to charge and collect a fee is the Fee and Charges Act of 1951, and OMB Circular No. A-25 (see Appendix G and H).

The Act requires the charges to be "fair and equitable", taking into account: (1) the cost to the Government; (2) the value to the recipient; and (3) the public policy or interest served. The provisions of OMB Circular No. 25 allow charges to recover the full cost to the Federal Government of rendering the service for all Federal activities which convey special privileges to identifiable recipients above and beyond those accruing to the public at large.

In the analysis of authorities of these three fee systems, we see three different authorities used to accomplish essentially the same objective. In recognition of the lack of uniform understanding and clarity on this subject, and perhaps an implied reinforcement of the direction to charge fees for special services, the Forest Service recently proposed a new rule to deal with this subject.

The proposed rule is printed in Vol. 49, No. 222, of the Federal Register dated November 15, 1984 (see Appendix K). This rule proposes regulations to recover Federal costs associated with administering reservation systems within National Forest recreation areas. Fees would be non-refundable and based upon the anticipated administration costs. The background information in the Federal Register recognizes a reservation is a special service primarily benefiting the user. If implemented as proposed, the new rule would read as follows:

291.10 Reservation fees.

(a) The Forest Service may charge fees to recover expenses incurred in providing reservation and other special services for the public use of recreation areas where limitations on use are deemed necessary or desirable to achieve the management purposes of an area of the National Forest System. The Chief of the Forest Service or his delegate shall establish the amount of such fees.

(b) Forest Service officials shall prominently post clear notice that a reservation fee has been established at each area and at appropriate locations therein. Publications distributed at such areas shall also include such notice.

The proposed rule clearly distinguishes between a "user" fee and a "reservation" or "special service" fee. Congress did not intend through the L&WCFA that the public be charged a fee for use of dispersed recreation areas (i.e., "user" fee).

Enactment of the proposed rule would allow more consistent interpretation, application, and understanding, both by legal counsel and Forest Service administrators, as to when and under what circumstances a fee system may be appropriate.

DISPOSITION OF FEES

If the most asked question about fee systems is, "What is the authority?", then the next most popular question is, "Can the collecting unit retain the money for management?" Neither the Land & Water Conservation Fund Act nor the Fee and Charges Act of 1951 authorize units to retain collected fees. All funds must be deposited in the U. S. Treasury for later appropriation by Congress. The proposed rule (CFR 291.10) discussed previously is silent on disposition of fees. Therefore, fees collected under this new authority still could not be retained locally.

It is the belief of the author that the majority of Forest users paying a fee, whether for a campground or a reservation service on a river, assume their fee remains in the local area to facilitate future management. This feeling is shared by many other recreation resource managers and is primarily the result of questions and discussions with Forest visitors. It is also the author's belief that this is the primary reason for such public acceptance of fees.

MANAGEMENT RESULTS

At popular recreation areas where use is at or near capacity, "no-shows" are a management problem. A "no-show" is a person or group that has been guaranteed (usually through reservation) a place, time, or both, to use the recreation facility but neither shows up or cancels the reservation. It is a problem because it is an opportunity that is usually lost unless reallocation at the last minute is possible. Even when reallocation is possible, it requires duplicate time and expense of the agency to reallocate that which was done previously, and it allows the new users little or no time to plan for their trip. Consequently, no-shows are an impact to the Agency as well as to the Forest visitor. It should be the objective of management to eliminate or minimize no-shows.

With the Rogue River and BWCAW, this was specifically one of management's stated objectives in the design of their respective systems. For the BLM, although it cannot be shown that it was one of their specific objectives, it was still a result. The table below demonstrates the reduction in no-shows after implementing a fee.

TABLE 1. No-shows.

	Rogue River	BLM	BWCAW
No-shows reduced by:	50%	Varied by river. Significant to None	22%

A second management concern at areas having reservation services is that of rapidly-increasing applications. For management this is an impact

because of the cost associated with responding to inquiries, handling and processing more applications each year with a fixed (or decreasing) amount of money and manpower. (The number of applications for the selection process on the Rogue River had been growing at an average rate of 2,000 per year, from 1,400 in 1978 to 9,400 in 1983, the year prior to the fee system.) From the applicant's standpoint the odds of being successful are decreased with each additional application.

It is logical to assume that charging a fee for a service that was previously free would not be attractive to some users, and therefore it should be predictable that the number of applicants will decrease. The results of two out of the three systems support this theory. The following table illustrates the reduction in applications for each area.

TABLE 2. Applications.

	Applications Received		
	Rogue River	BLM	BWCAW
1981			23,000
1982			* 16,000
1983	9,400	*	16,000
1984	* 4,700	Unknown	17,000

* First year of fee system.

The reduction of applications by 50% on the Rogue River cannot be attributed entirely to fees. In 1984 applicants who were manipulating the application system were prevented from applying more than one time, through a computer design. It is impossible to identify what amount of reduction in applicants can be attributed to these factors.

Consistently, however, all areas exhibited a reduction in applications. For the agency this meant time savings, and for the applicants it improved the odds of obtaining a reservation due to less competition. It can be speculated that any of several situations may have taken place to accommodate the users who no longer apply for reservations at these areas.

Possible outcomes:

(1) They may have gone to a similar place for a similar experience without a fee.

(2) They may have rejected the notion of a fee, and are continuing their traditional use in trespass.

(3) They may have substituted their previous form of recreation for something new.

(4) In the case of BWCAW, they may still use the area legally but may have found they can gain the same access without the service of a reservation.

(5) They may have shifted their use to outside the regulated season.

A third consistant result of each fee system was the financial return to the Treasury. In all cases this was an original stated objective. (For BLM it is found in the Special Recreation Permit Policy.) It was also an expected result, since there is currently no authority allowing anything other than returning collected funds to the Treasury. The following

table displays the collection results of each system in its first year.

TABLE 3. Returns to Treasury.

	Rogue R. ('84)	BLM ('83)	BWCAW ('82)
Returns to Treasury in First Year of Operation	$40,000	$43,000	$85,000

DEVELOPMENT OF FEE

The fee for each area was developed differently by each administrative unit.

Rogue River managers started by identifying and itemizing individual direct costs of administering the application and reservation system. Included in this list were salaries and per diem, vehicle costs, office equipment, building maintenance, and utilities. Indirect costs, such as law enforcement, overhead, support services, and so forth were intentionally not included. This established an anticipated annual operating cost of approximately $42,000. The entire system was then designed around both the predicted number of applicants and winners equitably splitting the $42,000 cost.

The BLM did not directly relate to its costs at Moab in order to establish their fee. Within BLM, fees for non-commercial recreation services are based on Bureau-wide averages of the costs of issuing permits or reservations and administration of the program. This average is identified as a cost per user day. In 1983, the cost was determined to be $1.00 per user day. In 1984, a new fee schedule was developed for BLM through their Special Recreation Permit Policy. This Policy reviewed and established fees for both commercial and non-commercial recreation. The result was that BLM's fee schedule fluctuated and in 1984 the fee dropped to $.50 per user day. The Policy increased the fee to $1.00 per user day in 1985, and $1.50 per user day in 1986.

Three different river segments of varying length are managed by the Moab BLM office. In an effort to make administration of the fee system manageable and effective, fees were standardized to reflect the average number of user days floaters spend on each river segment. These are shown below.

TABLE 4. Use Fees BLM.

River	Segment	Average # User Days/ Trip		Cost/User Day ('84)		Fee/Person for Trip
Green	Desolation-Gray	5.0	x	$.50	=	$2.50
Colorado	Westwater	1.5	x	.50	=	.75
San Juan	Mexican Hat to Clay Hill	5.0	x	.50	=	2.50

The BWCAW fee seems to be the most basic of the three and is similar to the Rogue's. Costs were identified and the anticipated number of applications was divided into the cost. This resulted in a $5.00 fee per application, regardless of the party size. Applications to BWCA essentially continue throughout the season, rather than at one specific time as on the Rogue River. Therefore, it would serve no practical purpose to distinguish between and charge separately for an application vs. a reservation.

At first glance, there appears to be wide disparity between the methodology of establishing each of the fees. Rogue and BWCAW identified direct costs at the specific sites and designed a system whereby the users at that site paid the costs. The BLM used Bureau-wide averages, and therefore costs may or may not be recovered on a site-specific basis.

It appears the BLM method has the potential to overcollect in some areas and not pay for itself in others, thereby not being defensible on a site-specific basis. It also appears that under the BLM system there is the potential to have a fee so small it is not cost effective to charge. However, BLM's is a very standardized system, easy to explain, understand, and implement. It also provides ready comparison and relationship to charges for similar commercial uses.

The BWCAW fee does not involve any "per person" charges. BWCAW sets a fee for an entire group, regardless of its size, and regardless of amount of time spent recreating. BLM's is exclusively a "per person" charge, and the total fee is determined by number of user days. The Rogue River system incorporates both. There is a group fee for the application, and a "per person" charge for the reservation, but neither recognizes user days in the formula.

TABLE 5. Summary Chart.

	Rogue	BLM	BWCA
Year of Implementation	'84	'83	'82
Key Contacts Made Prior to Implementation	Yes	No	Yes
Predicted Cost to Agency in First Year	$42,000	$45,000	$80,000
Amount Collected Through Fees	$40,000 ('84)	$22,000 ('84) $43,100 ('83)	$89,000 ('84) 84,000 ('83) 85,000 ('82)
Type of Fee	Application and Reservation	Reservation	Reservation
How Fee Determined	Actual Cost at Site	Bureau-Wide Average Costs x User Days	Actual Cost at Site
Amount of Fee (1984)	Applic. - $2/Group Reserv. - $5/Person	Green R.-$2.50/Person Colorado R. - $.75/Person San Juan R. - $2.50/Person	$5.00/Group
Fees Non-Refundable	Yes	Yes	Yes
Original Implementation Objectives Met	Yes	Yes	Yes
# Applications Reduced First Year	± 50%	Green R. - Rate of Increase Reduced Colo. R. - Unknown San Juan R. - No	± 25%
# No-Shows Reduced First Year	± 50%	Green R.- Significant Reduction Colo. R. - No Change San Juan R. - Slight Reduction	± 22%
Public Acceptance	Good	Good	Good

CHAPTER V

SUMMARY

As Chapter IV demonstrates, similarities and differences among the three fee systems exist. Because of a lack of specific direction on when, why, and how to establish fee systems for dispersed recreation use, managers have had the latitude to exercise flexibility and creativity in designing their systems. This has been advantageous from the standpoint of being able to deal with situations and problems unique to a specific site.

Use limitations were in place at the three sites prior to the establishment of a fee system. It was the use limit, coupled with high demand, that created the need for a reservation service, and the reservation service that resulted in charging a fee.

Existing authorities need clarification. The proposed rule shown in Appendix K will resolve that problem and also provide direction on when and how to establish a fee.

The Summary Chart on page 32 and the discussion in Chapter IV demonstrate the results of the fee systems were somewhat consistent. Public acceptance was good, perhaps because users assumed the funds collected stayed at the site for management, or perhaps they realized some personal benefits. Decreased applications and a reduced number of no-shows could be

among the user benefits that contributed to positive acceptance of the charges.

The two Forest Service fee systems had no problem recovering costs and the funds collected came very close to the targeted amount. This demonstrates that managers can reliably establish fee charges to match predicted outcomes.

CONCLUSIONS AND DISCUSSION

Recreation demand is increasing for certain types of unique experiences. Because of this high demand in combination with social and biological carrying capacity, many recreation managers must enforce user limitations. As shown in the previous section, this has the potential to be the first step toward a reservation fee. As demand continues to increase for these unique experiences, recreation managers must develop methods to accommodate more effective and efficient use of the resource. This may mean more complete resource utilization, increased user turnover, and closer definition of user expectations. The result is more intensive management of the resource, more intensive "structuring" of the experience, and more intensive scheduling of the user. A reservation system is one example of intensified user management.

It's reasonable to assume that intensified recreation management, including special services to users, will require additional time and money. Currently, agency recreation budgets and employees are decreasing. Management of special areas, where use is limited, requires the expenditure of funds to keep use static - to prevent use from increasing. In managing an area where use is limited, a recreation manager will not appear to be as cost-effective as one where use can continue to grow - particularly without providing any special services. It's ironic that a standard way for an agency to distribute recreation funds is by the amount of use a given field unit provides (i.e., the higher the use, or outputs, the greater the dollar allocation).

To resolve this dilemma, agencies must (1) recognize and accept higher "per user" costs where special services are provided; (2) find a cheaper way to provide the services; or (3) stop providing the services but recognize and accept the results of that action.

Contracting a reservation service with the private sector has been suggested as an alternative to the present method. Consistently, this brings up many questions and few answers. Would the volume of business and remote locations interest potential contractors? What is a reasonable fee to pay for the service? Should the contractor's profit be passed to the user? Contractor rates may fluctuate significantly from year to year. What will this do to public acceptance? And finally, regardless of who is operating the fee system, at what point will fees preclude some users, or group of users, due to costs? As reservation systems and other special services to users increase, agencies and recreation managers will begin to address questions such as those above, and other issues that will develop as the subject of special recreation fees evolves.

Chapters III and IV demonstrate the complexity of understanding and managing fee systems. The public shares this concern. River users have previously asked agencies to standardize use application procedures, dates, and regulations. They find it difficult, and rightly so, to understand all the policies, instructions, and dates they must comply with when making application to several rivers managed by different agencies or administrative units (see Appendix L). Could the public be better

served by an inter-agency reservation and/or fee system on a regional basis? ("Regional" in terms of rivers within a similar geographic area, not regional in terms of agency administrative boundaries.) Such an approach may be more attractive to prospective contractors rather than bidding on individual rivers, and has the potential to better serve the public through a central location and a more standardized approach. Such a concept would be appropriate for examination in a subsequent Recreation Short Course project at Clemson University or Utah State University.

In addition to the foregoing discussion, there are two very basic conclusions that can be drawn from this report and the literature review:

1. Managers can design and operate successful dispersed recreation user fee systems.

2. The public is ready to accept the concept of "user pay".

These two conclusions are so subtle they are easy to overlook. However, if they're accepted it should be with the understanding that the next step is the necessity to design and administer a fee system so that it's workable and supported by users. The following section will help with that step.

RECOMMENDATIONS

If a manager decides to charge a fee, several actions can be taken which will be helpful.

1. Clearly identify the reason(s) you plan to charge a fee. This will clarify it for you as well as for others, and will be the first question you are asked on this subject.

2. Identify the objectives you intend the fee system to accomplish. This will enable you to measure your degree of success. The more the public understands about the objectives and results, the more likely they will be to accept and support the fee system.

3. Design alternative methods of structuring the fee system (see Appendix B). This will allow selecting the best means to accomplish your objectives, as well as demonstrating there is not a readily apparent better alternative.

4. Make early contact with key media, elected officials, and user groups. Consider developing a Plan for these contacts showing responsibilities and timing (see Appendix M and N). Experience on the Rogue River was that first reactions varied from ambivalence to anger. The more people understood, however, the more they supported the fee system. The recreation manager's goal should be to work toward support, not just acceptance (see Appendix O). Talks and/or displays at meetings with user groups demonstrating results of the fees are methods to accomplish this.

Results from River "X" can be used to demonstrate the benefits of a proposal on River "Y".

5. Obtain the services of the fiscal and accounting personnel in your organization early in the planning stages. Be sure you're adhering to fiscal and accountability procedures. Work with Fiscal Management personnel to develop a plan for receiving, accounting for, and depositing collected funds, as well as any other procedural activities or policies that need clarification (see Appendix P).

6. Emphasize the use of money orders or checks as opposed to cash. Consider not accepting cash. Cash is difficult to track, and makes an attractive target for thieves.

7. Determine ahead of time how to handle over or underpayments that arrive by mail (i.e. return the entire amount if incorrect, retain the overpayment, bill for underpayment, etc.).

8. Fees of this nature are often required to be collected and held at remote sites where security is a high concern. Plan for installation of a safe with several separate locked compartments to accommodate more than one collection officer. Recognize ahead of time that money may have to be transported by vehicle to the nearest administrative office, bank, post office, etc. This requires time and scheduling coordination with employees, office coverage, numbers of designated collection officers, etc. If at a remote

site, consider having a security check made on the building as well as the installation of an electronic surveillance system.

9. Recognize that the use of credit cards has some advantages for the manager as well as the user. However, at this time special authority is needed in order to accept payment by credit card.

The final recommendation is vital to the success of recreation fee systems. No existing laws allow the Forest Service to retain funds collected from any recreation fees. Only Congress can change this. Legislation should be constructed and approved that returns recreation fees to the administering agency. This makes sense during difficult budget times when these payments can supplement shrinking appropriated funds. It also makes sense because the public will support the concept more strongly if they're confident their fees will be returned in the form of future recreation services.

APPENDIX

A. Land & Water Conservation Fund Act of 1965.

B. Rogue River Fee System - Alternatives and Assessment.

C. Rogue River Application & Confirmation forms.

D. Federal Register (2/10/84), Final Special Recreation Permit Policy.

E. BLM River Trip Application & Permit.

F. BWCAW Plan (selected pages).

G. Fees & Charges Act of 1951.

H. Circular No. A-25.

I. BWCAW Meeting notes on fee amount and fee criteria.

J. Federal Register (8/29/84), Amendment of Subpart 8372.

K. Federal Register (11/15/84), Proposed Rule on Amendment of 36 CFR, Part 291, pp. 45177-8.

L. "I Hate River Permits," article from Northwest Rafters Association Newsletter, Vol. 3, No. 12, March, 1985.

M. BWCAW - I & I Plan.

N. Letter to Honorable Robert F. Smith.

O. NWRA letter to Forest Service.

P. Fee Collection Plan for BWCAW.

Q. BWCAW Reservation Application.

R. National Forest Use Fee Act of 1984.

Land and Water Conservation Fund Act of 1965

- Act of September 3, 1964 (P.L. 88-578, 78 Stat. 897; 16 U.S.C. 460l(note), 460l-4—460l-6, 460l-6a, 460l-7—460l-11; 23 U.S.C. 120(note))

Citation

Sec. 1. (a) CITATION: EFFECTIVE DATE.--This Act may be cited as the "Land and Water Conservation Fund Act of 1965" and shall become effective on January 1, 1965. (16 U.S.C. 460l-4(note))

(b) PURPOSES.--The purposes of this Act are to assist in preserving, developing, and assuring accessibility to all citizens of the United States of America of present and future generations and visitors who are lawfully present within the boundaries of the United States of America such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation in such recreation and to strengthen the health and vitality of the citizens of the United States by (1) providing funds for and authorizing Federal assistance to the States in planning, acquisition, and development of needed land and water areas and facilities and (2) providing funds for the Federal acquisition and development of certain lands and other areas. (16 U.S.C. 460l-4)

Separate Fund

Sec. 2. Separate Fund.--During the period ending September 30, 1989, there shall be covered into the land and water conservation fund in the Treasury of the United States, which fund is hereby established and is hereinafter referred to as the 'fund', the following revenues and collections:

(a) Surplus Property Sales.--All proceeds (except so much thereof as may be otherwise obligated, credited, or paid under authority of those provisions of law set forth in section 485(b)(e), title 40, United States Code, or the Independent Offices Appropriation Act, 1963 (76 Stat. 725) or in any later appropriation Act) hereafter received from any disposal of surplus real property and related personal property under the Federal Property and Administrative Services Act of 1949, as amended, notwithstanding any provision of law such proceeds shall be credited to miscellaneous receipts of the Treasury. Nothing in this act shall affect existing laws or regulations

concerning disposal of real or personal surplus property to schools, hospitals, and States and their political subdivisions.

(b) Motorboat Fuels Tax.--The amounts provided for in section 201 of this Act.

(c)(1) Other Revenues.--In addition to the sum of the revenues and collections estimated by the Secretary of the Interior to be covered into the fund pursuant to this section, as amended, there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated such amounts as are necessary to make the income of the fund not less than $300,000,000 for fiscal year 1977, $600,000,000 for fiscal year 1978, $750,000,000 for fiscal year 1979, and $900,000,000 for fiscal year 1980 and for each fiscal year thereafter through September 30, 1989.

(2) To the extent that any such sums so appropriated are not sufficient to make the total annual income of the fund equivalent to the amounts provided in clause (1), an amount sufficient to cover the remainder thereof shall be credited to the fund from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.): Provided, That notwithstanding the provisions of section 3 of this Act, moneys covered into the fund under this paragraph shall remain in the fund until appropriated by the Congress to carry out the purpose of this Act. (16 U.S.C. 460l-5)

Appropriations

Sec. 3. APPROPRIATIONS.--Moneys covered into the fund shall be available for expenditure for the purposes of this Act only when appropriated therefor. Such appropriations may be made without fiscal-year limitation. Moneys covered into this fund not subsequently authorized by the Congress for expenditures within two fiscal years following the fiscal year in which such moneys had been credited to the fund, shall be transferred to miscellaneous receipts of the Treasury. (16 U.S.C. 460l-6).

Admission Fees

Sec. 4. (a) ADMISSION FEES.--Entrance or admission fees shall be charged only at designated units of the National Park System administered by the Department of the Interior and National Recreation Areas administered by the Department of Agriculture. No admission fees of any kind shall be charged or imposed for entrance into any other federally owned areas which are operated and maintained by a Federal agency and used for outdoor recreation purposes.

(1) For admission into any such designated area, an annual admission permit (to be known as the Golden Eagle Passport) shall be available, for a fee of not more than $10. The permittee and any person accompanying him in a single, private, noncommercial vehicle, or alternatively, the permittee and his spouse, children, and parents accompanying him where entry to the area is by any means other than private, noncommercial vehicle, shall be entitled to general admission into any area designated pursuant to this subsection. The annual permit shall be valid during the calendar year for which the annual fee is paid. The annual permit shall not authorize any uses for which additional fees are charged pursuant to subsections (b) and (c) of this section. The annual permit shall be nontransferable and the unlawful use thereof shall be punishable in accordance with regulations established pursuant to subsection (e). The annual permit shall be available for purchase at any such designated area.

(2) Reasonable admission fees for a single visit at any designated area shall be established by the administering Secretary for persons who choose not to purchase the annual permit. A 'single visit' means that length of time a visitor remains within the exterior boundary of a designated fee area beginning from the day he first enters the area until he leaves, except that on the same day such admission fee is paid, the visitor may leave and reenter without the payment of an additional admission fee to the same area.

(3) No admission fee shall be charged for travel by private, noncommercial vehicle over any national parkway or any road or highway established as a part of the National Federal Aid System, as defined in section 101, title 23, United States Code, which is commonly used by the public as a means of travel between two places either or both of which are outside the area. Nor shall any fee be charged for travel by private, noncommercial vehicle over any road or highway to any land in which such person has any property right if such land is within any such designated area. In the Smoky Mountains National Park, unless fees are charged for entrance into said park on main highways and thoroughfares, fees shall not be charged for entrance on other routes into said park or any part thereof.

(4) The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit (to be known as the 'Golden Age Passport') to any citizen of, or person domiciled in, the United States sixty-two years of age or older applying for such permit. Such permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and any person accompanying him in a single, private, noncommercial vehicle, or alternatively, the permittee and his spouse and children accompanying him

where entry to the area is by any means other than private, noncommercial vehicle, to general admission into any area designated pursuant to this subsection. No other free permits shall be issued to any person: Provided, That no fees of any kind shall be collected from any persons who have a right of access for hunting or fishing privileges under a specific provision of law or treaty or who are engaged in the conduct of official Federal, State, or local Government business and Provided further, That for no more than three years after the date of enactment of this Act, visitors to the United States will be granted entrance, without charge, to any designated admission fee area upon presentation of a valid passport.

(b) Recreation Use Fees.--Each Federal agency developing, administering, providing or furnishing at Federal expense, specialized outdoor recreation sites, facilities, equipment, or services shall, in accordance with this subsection and subsection (d) of this section, provide for the collection of daily recreation use fees at the place of use or any reasonably convenient location: Provided, That in no event shall there be a charge by any such agency for the use, either singly or in any combination, of drinking water, wayside exhibits, roads, overlook sites, visitors' centers, scenic drives, toilet facilities, picnic tables, or boat ramps: Provided however, That a fee shall be charged for boat launching facilities only where specialized facilities or services such as mechanical or hydraulic boat lifts or facilities are provided: And provided further, That in no event shall there be a charge for the use of any campground not having the following--tent or trailer spaces, drinking water, access road, refuse containers, toilet facilities, personal collection of the fee by an employee or agent of the Federal agency operating the facility, reasonable visitor protection, and simple devices for containing a campfire (where campfires are permitted). At each lake or reservoir under the jurisdiction of the Corps of Engineers, United States Army, where camping is permitted, such agency shall provide at least one primitive campground containing designated campsites, sanitary facilities, and vehicular access, where no charge shall be imposed. Any Golden Age Passport permittee shall be entitled upon presentation of such permit to utilize such special recreation facilities at a rate of 50 per centum of the established use fee.

(c) Recreation Permits.--Special recreation permits for uses such as group activities, recreation events, motorized recreation vehicles, and other specialized recreation uses may be issued in accordance with procedures and at fees established by the agency involved.

(d) All fees established pursuant to this section shall be fair and equitable, taking into consideration the direct and indirect cost to the Government, the benefits to the

recipient, the public policy or interests served, the comparable recreation fees charged by non-Federal public agencies, the economic and administrative feasibility of fee collection and other pertinent factors.

Clear notice that a fee has been established pursuant to this section shall be prominently posted at each area and at appropriate locations therein and shall be included in publications distributed at such areas. It is the intent of this Act that comparable fees should be charged by the several Federal agencies for comparable services and facilities.

(e) In accordance with the provisions of this section, the heads of appropriate departments and agencies may prescribe rules and regulations for areas under their administration for the collection of any fee established pursuant to this section. Persons authorized by the heads of such Federal agencies to enforce any such rules or regulations issued under this subsection may, within areas under the administration or authority of such agency head and with or, if the offense is committed in his presence, without a warrant, arrest any person who violates such rules and regulations. Any person so arrested may be tried and sentenced by the United States magistrate specifically designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided in title 18, United States Code, section 3401, subsections (b), (c), (d), and (e), as amended. Any violations of the rules and regulations issued under this subsection shall be punishable by a fine of not more than $100.

(f) Except as otherwise provided by law or as may be required by lawful contracts entered into prior to September 3, 1964, providing that revenues collected at particular Federal areas shall be credited to specific purposes, all fees which are collected by any Federal agency shall be covered into a special account in the Treasury of the United States to be administered in conjunction with, but separate from, the revenues in the Land and Water Conservation Fund: Provided, That the head of any Federal agency, under such terms and conditions as he deems appropriate, may contract with any public or private entity to provide visitor reservation services; and any such contract may provide that the contractor shall be permitted to deduct a commission to be fixed by the agency head from the amount charged the public for providing such services and to remit the net proceeds therefrom to the contracting agency. Revenues in the special account shall be available for appropriation, without prejudice to appropriations from other sources for the same purposes, for any authorized outdoor recreation function of the agency by which the fees were collected: Provided, however, That not more than forty per centum of the amount so credited may be appropriated

during the five fiscal years following the enactment of this Act for the enhancement of the fee collection system established by this section, including the promotion and enforcement thereof.

(g) Nothing in this Act shall authorize Federal hunting or fishing licenses or fees or charges for commercial or other activities not related to recreation, nor shall it affect any rights or authority of the States with respect to fish and wildlife, nor shall it repeal or modify any provision of law that permits States or political subdivisions to share in the revenues from Federal lands or any provision of law that provides that any fees or charges collected at particular Federal areas shall be used for or credited to specific purposes or special funds as authorized by that provision of law.

(h) Periodic reports indicating the number and location of fee collection areas, the number and location of potential fee collection areas, capacity and visitation information, the fees collected, and other pertinent data, shall be coordinated and compiled by the Bureau of Outdoor Recreation and transmitted to the Committees on Interior and Insular Affairs of the United States House of Representatives and United States Senate. Such reports, which shall be transmitted no later than March 31 annually, shall include any recommendations which the Bureau may have with respect to improving this aspect of the land and water conservation fund program. (16 U.S.C. 460l-6a)

Allocation

Sec. 5. Allocation.--There shall be submitted with the annual budget of the United States a comprehensive statement of estimated requirements during the ensuing fiscal year for appropriations from the fund. Not less that 40 per centum of such appropriations shall be available for Federal purposes. (16 U.S.C. 460l-7)

General Authority

Sec. 6. (a) General Authority; Purposes.--The Secretary of the Interior (hereinafter referred to as the 'Secretary') is authorized to provide financial assistance to the States from moneys available for State purposes. Payments may be made to the States by the Secretary as hereafter provided, subject to such terms and conditions as he considers appropriate and in the public interest to carry out the purposes of this Act, for outdoor recreation: (1) planning, (2) acquisition of land, waters, or interests in land or waters, or (3) development.

(b) Apportionment Among States; Notification.--Sums appropriated and available for State purposes for each fiscal year shall be apportioned among the several States by

the Secretary, whose determination shall be final, in accordance with the following formula:

(1) forty per centum of the first $225,000,000; thirty per centum of the next $275,000,000; and twenty per centum of all additional appropriations shall be apportioned equally among the several States; and

(2) At any time, the remaining appropriation shall be apportioned on the basis of need to individual States by the Secretary in such amounts as in his judgment will best accomplish the purposes of this Act. The determination of need shall include among other things a consideration of the proportion which the population of each State bears to the total population of the United States and of the use of outdoor recreation resources of individual States by persons from outside the State as well as a consideration of the Federal resources and programs in the particular States.

(3) The total allocation to an individual State under paragraphs (1) and (2) of this subsection shall not exceed 10 per centum of the total amount allocated to the several States in any one year.

(4) The Secretary shall notify each State of its apportionments; and the amounts thereof shall be available thereafter for payment to such State for planning, acquisition, or development projects as hereafter prescribed. Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such notification is given and for two fiscal years thereafter shall be reapportioned by the Secretary in accordance with paragraph (2) of this subsection, without regard to the 10 per centum limitation to an individual State specified in this subsection.

(5) For the purposes of paragraph (1) of this subsection, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (when such islands achieve Commonwealth status) shall be treated collectively as one State, and shall receive shares of such apportionment in proportion to their populations. The above listed areas shall be treated as States for all other purposes of this title.

(c) Matching Requirements.--Payments to any State shall cover not more than 50 per centum of the cost of planning, acquisition, or development projects that are undertaken by the State. The remaining share of the cost shall be borne by the State in a manner and with such funds or services as shall be satisfactory to the Secretary. No payment may be made to any State for or on account of any cost or obligation incurred or any service rendered prior to the date of approval of this Act.

(d) Comprehensive State Plan Required; Planning Projects.--A comprehensive statewide outdoor recreation plan shall be required prior to the consideration by the

Secretary of financial assistance for acquisition or development projects. The plan shall be adequate if, in the judgment of the Secretary, it encompasses and will promote the purposes of this Act: Provided, That no plan shall be approved unless the Governor of the respective State certifies that ample opportunity for public participation in plan development and revision has been accorded. The Secretary shall develop, in consultation with others, criteria for public participation, which criteria shall consititute the basis for the certification by the Governor. The plan shall contain--

(1) the name of the State agency that will have authority to represent and act for the State in dealing with the Secretary for purposes of this Act;

(2) an evaluation of the demand for and supply of outdoor recreation resources and facilities in the State;

(3) a program for the implementation of the plan; and

(4) other necessary information, as may be determined by the Secretary.

The plan shall take into account relevant Federal resources and programs and shall be correlated so far as practicable with other State, regional, and local plans. Where there exists or is in preparation for any particular State a comprehensive plan financed in part with funds supplied by the Housing and Home Finance Agency, any statewide outdoor recreation plan prepared for purposes of this Act shall be based upon the same population, growth, and other pertinent factors as are used in formulating the Housing and Home Finance Agency financed plans.

The Secretary may provide financial assistance to any State for projects for the preparation of a comprehensive statewide outdoor recreation plan when such plan is not otherwise available or for the maintenance of such plan.

(e) Projects for Land and Water Acquisition; Development.--In addition to assistance for planning projects, the Secretary may provide financial assistance to any State for the following types of projects or combinations thereof if they are in accordance with the State comprehensive plan:

(1) Acquisition of Land and Waters.--For the acquisition of land, waters, or interests in land or waters (other than land, waters, or interests in land or waters acquired from the United States for less than fair market value), but not including incidental costs relating to acquisition.

Whenever a State provides that the owner of a single-family residence may, at his option, elect to retain a right of use and occupancy for not less than six months from the date of acquisition of such residence and such owner elects to retain such a right, such owner shall be deemed to have waived any benefits under sections 203, 204, 205, and 206 of the Uniform Relocation Assistance and Real Property

Acquisition Policies Act of 1970 (84 Stat. 1894) and for the purposes of those sections such owner shall not be considered a displaced person as defined in section 101(6) of the Act.

(2) Development.--For development of basic outdoor recreation facilities to serve the general public, including the development of Federal lands under lease to States for terms of twenty-five years or more: Provided, That no assistance shall be available under this Act to enclose or shelter facilities normally used for outdoor recreation activities, but the Secretary may permit local funding, and after the date of enactment of this proviso not to exceed 10 per centum of the total amount allocated to a State in any one year to be used for sheltered facilities for swimming pools and ice skating rinks in areas where the Secretary determines that the severity of climatic conditions and the increased public use thereby made possible justifies the construction of such facilities.

(f)(1) Requirements for Project Approval; Condition.--Payments may be made to States by the Secretary only for those planning, acquisition, or development projects that are approved by him. No payment may be made by the Secretary for or on account of any project with respect to which financial assistance has been given or promised under any other Federal program or activity, and no financial assistance may be given under any other Federal program or activity for or on account of any project with respect to which such assistance has been given or promised under this Act. The Secretary may make payments from time to time in keeping with the rate of progress toward the satisfactory completion of individual projects: Provided, That the approval of all projects and all payments, or any commitments relating thereto, shall be withheld until the Secretary receives appropriate written assurance from the State that the State has the ability and intention to finance its share of the cost of the particular project, and to operate and maintain by acceptable standards, at State expense, the particular properties or facilities acquired or developed for public outdoor recreation use.

(2) Payments for all projects shall be made by the Secretary to the Governor of the State or to a State official or agency designated by the Governor or by State law having authority and responsibility to accept and to administer funds paid hereunder for approved projects. If consistent with an approved project, funds may be transferred by the State to a political subdivision or other appropriate public agency.

(3) No property acquired or developed with assistance under this section shall, without the approval of the Secretary, be converted to other than public outdoor recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then

existing comprehensive statewide outdoor recreation plan and only upon such conditions as he deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location.

(4) No payment shall be made to any State until the State has agreed to (1) provide such reports to the Secretary, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his duties under this Act, and (2) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting for Federal funds paid to the State under this Act.

(5) Each recipient of assistance under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(6) The Secretary, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purposes of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this Act.

(7) Each State shall evaluate its grant programs annually under guidelines set forth by the Secretary and shall transmit such evaluation to the Secretary, together with a list of all projects funded during that fiscal year, including, but not limited to, a description of each project, the amount of Federal funds employed in such project, the source of other funds, and the estimated cost of completion of the project. Such evaluation and the publication of same shall be eligible for funding on a 50-50 matching basis. The results of the evaluation shall be annually reported on a fiscal year basis to the Bureau of Outdoor Recreation, which agency shall forward a summary of such reports to the Committees on Interior and Insular Affairs of the United States Congress. Such report to the committees shall also include an analysis of the accomplishments of the fund for the period reported, and may also include recommendations as to future improvements for the operation of the Land and Water Conservation Fund program.

(8) With respect to property acquired or developed with assistance from the fund, discrimination on the basis of residence, including preferential reservation or memberhip systems, is prohibited except to the extent that

reasonable differences in admission and other fees may be maintained on the basis of residence.

(g) Coordination With Federal Agencies.--In order to assure consistency in policies and actions under this Act, with other related Federal programs and activities (including those conducted pursuant to title VII of the Housing Act of 1961 and section 701 of the Housing Act of 1954) and to assure coordination of the planning, acquisition, and development assistance to States under this section with other related Federal programs and activities, the President may issue such regulations with respect thereto as he deems desirable and such assistance may be provided only in accordance with such regulations. (16 U.S.C. 460l-8)

Land Acquisition by Purchase

Sec. 7. (a) Moneys appropriated from the fund for Federal purposes shall, unless otherwise allotted in the appropriation Act making them available, be allotted by the President to the following purposes and subpurposes:

(1) For the acquisition of land, waters, or interests in land or waters as follows:

National park system; recreation areas.--Within the exterior boundaries of areas of the National Park System now or hereafter authorized or established and of areas now or hereafter authorized to be administered by the Secretary of the Interior for outdoor recreation purposes.

National forest system.--Inholdings within (a) wilderness areas of the National Forest System, and (b) other areas of national forests as the boundaries of those forests exist on the effective date of this Act, or purchase units approved by the National Forest Reservation Commission subsequent to the date of this Act, all of which other areas are primarily of value for outdoor recreation purposes: Provided, That lands outside of but adjacent to an existing national forest boundary, not to exceed three thousand acres in the case of any one forest, which would comprise an integral part of a forest recreational management area may also be acquired with moneys appropriated from this fund: Provided further, That except for areas specifically authorized by Act of Congress, not more than 15 per centum of the acreage added to the National Forest System pursuant to this section shall be west of the 100th meridian.

National wildlife refuge system.--Acquisition for (a) endangered species and threatened species authorized under section 5(a) of the Endangered Species Act of 1973; (b) areas authorized by section 2 of the Act of September 28, 1962, as amended (16 U.S.C. 460k-1); (c) national wildlife refuge areas under section 7(a)(5) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(5)) except migratory

waterfowl areas which are authorized to be acquired by the Migratory Bird Conservation Act of 1929, as amended (16 U.S.C. 715-715s); (d) any areas authorized for the National Wildlife Refuge System by specific Acts.

(2) For payment into miscellaneous receipts of the Treasury as a partial offset for those capital costs, if any, of Federal water development projects hereafter authorized to be constructed by or pursuant to an Act of Congress which are allocated to public recreation and the enhancement of fish and wildlife values and financed through appropriations to water resource agencies.

(b) Acquisition Restriction.--Appropriations from the fund pursuant to this section shall not be used for acquisition unless such acquisition is otherwise authorized by law. (16 U.S.C. 4601-9)

Restriction on Use of Funds

Sec. 8. Moneys derived from the sources listed in section 2 of this Act shall not be available for publicity purposes: Provided, however, That in each case where significant acquisition of development is initiated, appropriate standardized temporary signing shall be located on or near the affected site, to the extent feasible, so as to indicate the action taken is a product of funding made available through the Land and Water Conservation Fund. Such signing may indicate the per centum and dollar amounts financed by Federal and non-Federal funds, and that the source of the funding includes moneys derived from Outer Continental Shelf receipts. The Secretary shall prescribe standards and guidelines for the usage of such signing to assure consistency of design and application. (16 U.S.C. 4601-10)

Appropriation Authorization

Sec. 9. Not to exceed $30,000,000 of the money authorized to be appropriated from the fund by section 3 of this Act may be obligated by contract during each fiscal year for the acquisition of lands, waters, or interests therein within areas specified in section 7(a)(1) of this Act. Any such contract may be executed by the head of the department concerned, within limitations prescribed by the Secretary of the Interior. Any such contract so entered into shall be deemed a contractual obligation of the United States and shall be liquidated with money appropriated from the fund specifically for liquidation of such contract obligation. No contract may be entered into for the acquisition of property pursuant to this section unless such acquisition is otherwise authorized by Federal law. (16 U.S.C. 4601-10a)

Option Contracts for Land Acquisition

Sec. 10. The Secretary of the Interior may enter into contracts for options to acquire lands, waters, or interests therein within the exterior boundaries of any area the acquisition of which is authorized by law for inclusion in the national park system. The minimum period of any such option shall be two years, and any sums expended for the purchase thereof shall be credited to the purchase price of said area. Not to exceed $500,000 of the sum authorized to be appropriated from the fund by section 3 of this Act may be expended by the Secretary in any one fiscal year for such options. (16 U.S.C. 4601-10b)

Amendments to Existing Authority

Sec. 11. There is hereby repealed the third paragraph from the end of the division entitled "National Park Service" of section 1 of the Act of March 7, 1928 (45 Stat. 238) and the second paragraph from the end of the division entitled "National Park Service" of section 1 of the Act of March 4, 1929 (45 Stat. 1602; 16 U.S.C. 14). Section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes," approved December 21, 1944 (U.S.C., 460d), as amended by the Flood Control Act of 1962 (76 Stat. 1195) is further amended by deleting ", without charge," in the third sentence from the end thereof. All other provisions of law that prohibit the collection of entrance, admission, or other recreation user fees or charges authorized by this Act or that restrict the expenditure of funds if such fees or charges are collected hereby also repealed: Provided, That no provision of any law or treaty which extends to any person or class of persons a right of free access to the shoreline of any reservoir or other body of water, or to hunting and fishing along or on such shoreline shall be affected by this repealer. (16 U.S.C. 4601-10c)

Report to Congress

Sec. 12. Within one year of the date of enactment of this section, the Secretary is authorized and directed to submit to the Committees on Interior and Insular Affairs of the Senate and House of Representatives a comprehensive review and report on the needs, problems, and opportunities associated with urban recreation in highly populated regions, including the resources potentially available for meeting such needs. The report shall include site specific analyses and alternatives, in a selection of geographic environments representative of the Nation as a whole, including, but not limited to, information on needs, local

capabilities for action, major site opportunities, trends, and a full range of options and alternatives as to possible solutions and courses of action designed to preserve remaining open space, ameliorate recreational deficiency, and enhance recreational opportunity for urban populations, together with an analysis of the capability of the Federal Government to provide urban-oriented environmental education programs (including, but not limited to, cultural programs in the arts and crafts) within such options. The Secretary shall consult with, and request the views of, the affected cities, counties, and States on the alternatives and courses of action identified. (16 U.S.C. 4601-10d)

TITLE II - MOTORBOAT FUEL TAX PROVISIONS

Conservation Fund in the Treasury

Sec. 201. (a) There shall be set aside in the land and water conservation fund in the Treasury of the United States provided for in title I of this Act the amounts specified in section 209(f)(5) of the Highway Revenue Act of 1956 (relating to special motor fuels and gasoline used in motorboats).

(b) There shall be paid from time to time from the land and water conservation fund into the general fund of the Treasury amounts estimated by the Secretary of the Treasury as equivalent to--

(1) the amounts paid before July 1, 1978, under section 6421 of the Internal Revenue Code of 1954 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems) with respect to gasoline used after December 31, 1964, in motorboats, on the basis of claims filed for periods ending before October 1, 1977; and

(2) 80 percent of the floor stocks refunds made before July 1, 1978, under section 6412(a)(2) of such Code with respect to gasoline to be used in motorboats. (16 U.S.C. 4601-11)

Amendment to the Highway Revenue Act

Sec. 202. (a) Section 209(f) of the Highway Revenue Act of 1956 (relating to expenditures from highway trust fund) is amended by adding at the end thereof the following new paragraph:

"(5) TRANSFERS FROM THE TRUST FUND FOR SPECIAL MOTOR FUELS AND GASOLINE USED IN MOTORBOATS.--The Secretary of the Treasury shall pay from time to time from the trust fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Act of 1965 amounts as determined by him in consultation with the Secretary of Commerce equivalent to the taxes received, on

BRIEFING PAPER

Rogue River Fee System Proposal

Alternatives and Assessment

Presented by Pete Brost

To Regional Forester and Staff

October, 1983

The following material was jointly developed by personnel from the Siskiyou National Forest and Medford District BLM.

A. Selection Criteria	Weight
1. Helps defray costs.	equal
2. Reduces existing permit system problems -or- provides more opportunity for public use. (High number of large party applications; reduce number of applications; reduce no-shows.)	10
3. Most defensible.	8
4. Simple to understand and administer.	7
5. Equity among all non-commercial floaters.	4
6. Minimize collections at Rand.	1

B. Assumptions

1. Objective is to generate enough dollars to defray only direct costs of operating permit system (i.e. - from time of application to getting a permit into a floaters hands). Joint BLM (± $12,000) and F.S. (± $30,000) costs are $42-45,000).

2. Assume number of applications will shrink from 9400 in 1983 to 6600 in 1984. (Reduce 20% because of new change in party leader/alternate policy; reduce 10% because of fee system.)

3. Assume the actual number of non-commercial floaters will be ± 5800 in 1984. (Same as 1983, with an absolute maximum capacity of 6000.)

4. Assume average party size of seven people (from statistics).

5. Assume average trip length of three days.

C. Alternatives

1. Combination Fee

Flat application fee at time of application submission ($2.00), and a reservation fee ($5.00), per party member, paid at time of trip confirmation.

2. Flat Application Fee

Fee of $7.00 per application, regardless of number of people in party, payable at time of application.

3. Application Fee by Party Member

Fee of $1.00 per person on application, payable at time of application.

4. Reservation Fee

Fee of $8.00 per person in party, payable at time of trip confirmation.

D. Revenues Generated and Costs

1. Combination Fee

$2.00/application x 6600	=	$ 13,200.00
$5.00/person x 5800	=	29,000.00
		$ 42,000.00
Cost to typical party	=	$ 37.00
Cost/person	=	$ 5.30
Cost/person/day	=	$ 1.75

2. Flat Application Fee

$7.00/application x 6600	=	$ 46,200.00
Cost to typical party	=	$ 7.00
Cost/person	=	$ 1.00
Cost/person/day	=	$ .33

3. Application Fee by Party Members

$1.00/person x 6600 x 7	=	$ 46,200.00
Cost to typical party	=	$ 7.00
Cost/person	=	$ 1.00
Cost/person/day	=	$ .33

4. Reservation Fee

$8.00/person x 5800	=	$ 46,400.00
Cost to typical party	=	$ 56.00
Cost/person	=	$ 8.00
Cost/person/day	=	2.70

6600 applications @ $2.00	=	$ 13,200
@ $3.00	=	19,800
@ $4.00	=	26,400
@ $5.00	=	33,000
@ $6.00	=	39,600

5800 floaters @ $2.00	=	$ 11,600
@ $3.00	=	17,400
@ $4.00	=	23,200
@ $5.00	=	29,000
@ $6.00	=	34,800
@ $7.00	=	40,600
@ $8.00	=	46,400

E. Comparison of Alternatives

CRITERIA	WEIGHT	ALTERNATIVE			
		A	B	C	D
1. Defray costs	Decision	to collect same amount for all.			
2. More opportunities	10	10 / 100	1 / 10	1 / 10	5 / 50
3. Defensible	8	10 / 80	3 / 24	3 / 24	1 / 8
4. Simple	7	1 / 7	10 / 70	8 / 56	7 / 49
5. Equity	4	10 / 40	1 / 4	3 / 12	2 / 8
6. Rand Collections	1	5 / 5	10 / 10	10 / 10	1 / 1
TOTAL SCORE		232	118	112	116

APPENDIX C

ROGUE RIVER POOL APPLICATION

Open Pool Date _____ Launch Date _____

Common Pool Date _____ Party Size _____ Fee _____

Party Leader _____

Address _____

City, State, Zip _____

Telephone _____

Alternate Party Leader (Optional) _____

"I'm going to tell you five things which you need to understand."

_____ You will be charged $5.00 for each person you schedule at this time, regardless of the number of persons who actually accompany the trip, UNLESS you cancel party members at least 24 hours prior to your permitted launch date. You will pay your fees when you check in at Rand to pick up your permit. If you choose to pay with cash, you must bring the correct amount, because we do not always have change.

_____ Either you or your alternate party leader must check in at Rand no later than 2:00 p.m. on your permitted launch date.

_____ Either you or your alternate party leader must provide pictured identification when picking up your permit.

_____ You must provide a list of the complete names and addresses of the party members when you pick up your permit at Rand on your permitted launch date.

_____ You must provide a list of how many and what kinds of craft you have.

This permit was scheduled by: _____

ROGUE RIVER NONCOMMERCIAL TRIP CONFIRMATION SHEET

Permitted Launch Date _____

Maximum Party Size _____

Type or print legal and complete names and addresses of all party members. Enclose a $5.00 processing fee for each party member. This Confirmation Sheet must arrive in our office **no later than ten** (10) days **prior to the permitted launch** date or your permit will be canceled.

1. _____ Party Leader

2. _____ Alternate

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

11. _____

12. _____

13. _____

14. _____

15. _____

16. _____

17. _____

18. _____

19. _____

20. _____

Federal Register

Friday
February 10, 1984

Part IV

Department of the Interior

Bureau of Land Management

43 CFR Part 8560
Final Special Recreation Permit Policy

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8560

Special Recreation Permit Policy

AGENCY: Bureau of Land Management, Interior.

ACTION: Final special recreation permit policy.

SUMMARY: This final Special Recreation Permit Policy describes how the Bureau of Land Management will administer permitted recreational use of public lands and related waters. It states the general policy that will be followed regarding Special Recreation Permits, how these permits will be issued, the basis for fees charged, the term of permits, how they may be renewed and transferred, bonding and insurance requirements, and methods necessary to gain compliance with terms and conditions of the permits.

This policy, as it relates to commercial recreational uses, closely parallels similar outfitter/guide policy proposed by the Forest Service.

This policy will serve as a basis for developing future, more specific guidance on Special Recreation Permits.

Comments received represented the full scope of affected publics and varied widely from full acceptance to full rejection. All comments having been carefully considered during the decision-making process, this final policy is thought to be in the best interest of the public.

EFFECTIVE DATE: February 10, 1984.

ADDRESS: Inquiries or suggestions should be sent to: Director (340), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Bruce R. Brown, (202) 343–9353.

SUPPLEMENTARY INFORMATION: The proposed policy on special recreation permits was published in the Federal Register on April 8, 1983 (48 FR 15275). Comments were invited for a period of 83 days ending on June 30, 1983. During this period a total of 84 comments were received, with 19 coming from individual outfitters, 16 from outfitter associations, 8 from State and local governments, 39 from other individuals, and 2 from congressmen.

As stated in the proposed policy, the need for a Bureauwide policy was the result of identified deteriorating resources, user conflicts and increased concern for safety. This policy recognizes and allows for specialized, individual recreational use in areas determined to require special management procedures to protect the resources or control visitor use. It also provides for commercial and competitive recreational uses on the public lands and related waters. The permitting system also recognizes the public service performed by commercial recreation services in providing recreation opportunities and access to recreation areas for those users not equipped or desiring to do so themselves.

Some of the key features of the proposed policy include: (1) Consistency in meeting recreation management planning objectives; (2) the requirement for special recreation permits for commercial, competitive, and other recreational uses; (3) enhanced stability for the commercial recreation industry operating on the public lands; (4) a timely appeals process; (5) a statement of goals for allocating limited recreation opportunities; (6) an equitable fee structure that attempts to recover permitting costs and, in some cases, generates net revenues; (7) provisions for fee waivers for educational use which are consistent with Departmental regulation in 36 CFR 71; (8) evaluation of permittee performance at least once per year; and, (9) monitoring and enforcement policies to deter unauthorized use.

It is also important to note that the policy contains several references to desired coordination with State and local governments and organizations to obtain their input and ensure compliance with any laws or regulations that affect the implementation of the special recreation permit policy. There are adequate opportunities to enter into cooperative agreements with county, State or Federal agencies for joint management of Federal recreation properties and facilities.

Many of the comments on the proposed policy applied to the proposed rulemaking on special recreation permits which appeared in the Federal Register on May 6, 1983 (48 FR 20630). As these comments were considered in developing the final rulemaking, responses to them are contained in the preamble of the final rulemaking. Therefore, this preamble will only discuss comments not addressed in the final rulemaking. Also, specific sections of the policy for which there were no comments will not be discussed.

The major opposing comments on the policy in general came from outfitters/guides and individual private users. The outfitters overwhelmingly supported the policy with the exception of fees. They particularly favored the policy on issuance of permits, length of the permit, renewal of permits, and transfer of permit privileges. They said the policy will give them the business stability they need to assure continuity of high quality service to the user publics.

On the other hand, many private users, particularly river users, feel the policy strongly favors the commercial outfitters, and if implemented would ensure the outfitters an exclusive, monopolistic use of public lands. In areas where maximum allowable use has been reached they feel all users should compete equally for space and allow those who are successful to decide if they want to go on their own or with an outfitter. They did not want a split allocation between user groups.

In response to these opposing views, it is important to understand this policy is not intended to favor any one sector of the user publics. Those aspects of the policy dealing with commercial permittees are designed to provide some degree of business stability to the outfitting industry, so that the segment of the user public desiring the services of a professional outfitter will have an opportunity for a particular type of recreational experience. The concerns expressed by the individual private users are aimed directly at the issue of allocation of limited use. While this policy does not discuss specific allocation methodologies, it does discuss allocation goals. Allocation decisions are made at the local field office level via the planning process. Using the goals stated in this policy and more specific guidance to be developed in the future, alternative allocation formulas will be evaluated, and after considering public input, a prescribed allocation of available use will be adopted for those special areas requiring restricted use. This allocation will be contained in the adopted management plan for each special area and is subject to change when it becomes necessary to revise the management plan. Any assigned use in connection with a permit is a privilege and may be revoked at any time for noncompliance with the terms and conditions of the permit.

Some comments said that the policy draft contained too much discussion on commercial permits and not enough on competitive and individual permits. This final policy contains more discussion on competitive and individual permits, particularly in section B., Issuance of permits, and section D., Terms.

In commenting on the key features of the proposed policy, one comment stated that it would be better to say the policy "attempts" to recover permitting costs. This change is made in the final policy.

General Policy

One comment suggested adding the word "equitable" to the statement on basic objectives. This change was adopted in the final policy.

One comment suggested eliminating the paragraph on privilege because it implies rights. There are no rights connected with a permit, only privileges. The authorized officer retains the authority to revoke or modify a special recreation permit.

One comment said that the requirement of permits for all off-road vehicle (ORV) events is unreasonable stating that some ORV events are spontaneous. The primary reason for requiring ORV events to be permitted is to ensure that the activity will not cause undue resource degradation. When a permit application is submitted for an ORV event, an environmental assessment is conducted to determine if the proposed use is compatible with the site, and to develop any required stipulations for use. However, the policy does allow for spontaneous, unpermitted use under certain conditions. The authorized officer has discretion to waive the permit and fee requirements for competitive events as described in section A.4. of the final policy.

On this subject of exemptions to ORV events, one commenter suggested replacing the criterion of "no cash prizes awarded" with "no prizes valued at greater than $50 are awarded." This change has not been made to the final policy. The determination of the dollar value of a single prize for purposes of an exemption would create burdensome requirements on both the Bureau and the event's sponsor.

One comment suggested adding the words "and there is no anticipated damage to resources or need of monitoring" to the exception criteria for competitive events discussed in section A.4. Since controlling use and reducing resource degradation are primary reasons for issuing permits, words to this effect have been added.

There were numerous comments on the allocation section. Some comments asked for more detailed discussion of allocation; some opposed any limits on access; some felt outfitters have been given virtually exclusive use of popular areas; some felt outfitters should be given a minimum of 50 percent of available use; a few thought all users should compete equally in a lottery for allowable use, and several suggested specific allocation methods. While all of these suggestions have merit, it is not appropriate to make decisions on allocation issues in this policy document for three reasons: (1) The various alternatives for allocating limited use opportunities have not been adequately researched and discussed with all affected publics and (2) detailed guidance on allocation, and the standards therefor, is more appropriately covered in a manual release, and (3) allocation criteria are in large part dictated by local conditions. The Bureau plans a thorough analysis of allocation issues, coordinated closely with interested user groups and other Federal and State agencies, before issuing more detailed guidance. Detailed comments and suggestions provided during the comment periods on this proposed policy will be considered at that time. As stated earlier in this preamble, the decision regarding allocation techniques and formulas will be contained in management plans for each special area requiring limited use. Therefore, discussion of allocation between user groups and rationing techniques has not been expanded in the final policy.

B. Issuance of Permits

Many comments favored the proposed policy on issuance of permits, stating that it will give outfitters the stability to maintain an economically viable operation and ensure quality service to the public. The key objective for the BLM is dependable, safe service to the public. While the Bureau does not have an obligation to guarantee financial success to a commercial permittee, economically healthy operators are in a much better position to provide safer, more enjoyable trips, which is clearly in the best interest of the public.

Many comments said that this policy unduly favored commercial outfitters and lacked adequate discussion on issuance of permits to other users. For the most part, the comments referred to the allocation issue which is responded to earlier in this preamble and will not be further discussed here. However, this policy section has been amended to cover the issuance of competitive and other use permits, adequately.

Two comments said that it was not clear whether or not a special recreation permit was valid in other Bureau Districts or in jurisdictions administered by other agencies. Generally permits are issued by individual Bureau offices and are valid only for a special area and time. However, in some cases a permit can authorize use in an area administered by more than one Bureau office or other agency. In these instances the use is managed by a cooperative agreement between the offices or agencies. An example would be where a river crosses administrative boundaries but is best managed as a single unit. Therefore, one joint permit may be issued.

One comment specifically asked what kind of competitive system will be used in issuing new permits. Many comments strongly opposed a bid/prospectus system. In this policy document no specific single system is recommended. However, as a point of clarification, the competitive system, if used, will be designed to determine who can best provide the type of service desired, in a manner that will have the highest probability of resulting in safe, enjoyable experiences. The amount of money a competitor is willing to offer will not be the basis for granting a permit.

Several comments said that the proposed policy on issuance of permits would preempt the ability of State agency licensing boards from deciding who gets commercial licenses to operate within their State. While the final decision on the award of Bureau permits must be retained by the authorized officer, no permits will be issued to commercial outfitters or guides without a valid State license in those States requiring such licenses.

One comment stated that new opportunities for commercial permits should not be reserved for existing marginally economical commercial permittees or those displaced from another area. These are only two of the possible alternatives identified in the proposed policy for awarding new commercial permits. They could also be awarded according to historical use, awarded by a competitive system or by a combination of methods. The primary objective is to select an operator who will provide the needed service in a manner that will best serve the public interest and protect the resource values. In certain specific situations an existing commercial permittee may be performing in a satisfactory manner, but because of limited allocation may only be operating on a marginally economical basis. If additional allocation would allow such an existing permittee to provide better services to the public, the authorized officer may give such a permittee priority in awarding a newly available commercial permit.

In the case of a commercial permittee who has been displaced from another area it has been decided such a permittee should not be given priority when new commercial permits are awarded in another area.

C. Fees

Most of the comments related to the discussion of fees and the fee schedule

contained in the proposed rulemaking on special recreation permits published in the Federal Register on May 6, 1983, (48 FR 20063). Some comments addressed the authority to establish fees, the possibility of using the consumer price index to guide annual fee increases, various specific fee rates, the amount of environmental degradation likely as a basis for setting fees, and the specific fee schedule each type of permittee is required to pay. As stated earlier, we responded to those comments in the preamble of the final rulemaking and will not discuss them in this final policy. However, as a general summary, the fee schedule shown below is thought to represent a fair and equitable charge which will allow the BLM to recover a greater portion of the costs of issuing and monitoring special recreation permits and in some instances will provide a return for the privilege of using Federal resources for commercial purposes.

The commercial fee schedule was carefully crafted after extensive consultation with a special committee from the outfitter and guide industry, and officials of the U.S. Forest Service, which has adopted the same schedule. The competitive fee schedule is designed to recover the increased costs of administering this type of special use permit and to cause some of the larger events to provide a similar return as from commercial permits. The permit fee proposed for other special uses was based on a projected Bureauwide average of the costs of issuing and administering the permits. However, based on recent field experience and after considering the comments on the proposed rulemaking, it has been determined that the fee for non-commercial, non-competitive permits should be reduced from $2 to $1.50 per use day. This is a reasonable proportion of the average fee charged commercial permittees and in most cases will be less than the commercial fee and still cover the cost of administering these permits.

The fee schedule, to be phased in over a three-year period beginning in 1984, is as follows:

(1) *Commercial use*—$100 for the term of the permit or the amount from the table below per participant, whichever is greater, is required. In determining the adjusted daily charge, the authorized officer will recognize that operators may, under certain circumstances, adjust their advertised customer rates, or that certain associated customer charges may be deducted from the daily amount charged participants. Deductions may be limited to long distance, off-site transportation and lodging expenses either before or after the associated permitted use, or fees paid to others for services off public lands. Documentation of the basis for adjusted customer rates may be required by the authorized officer.

Adjusted daily charge collected by permittee from each participant	Fee paid to the bureau per user day		
	1984	1985	1986
$8.00 or less	$.25	$.25	$.25
$8.01 to $20.00	.30	.35	.40
20.01 to $35.00	.45	.60	.80
35.01 to $50.00	.60	.95	1.30
50.01 to $75.00	.80	1.35	1.90
75.01 to $100.00	1.05	1.80	2.60
100.01 to $125.00	1.30	2.35	3.40
125.01 to $150.00	1.50	2.80	4.10
150.01 to $175.00	1.80	3.30	4.90
175.01 to $200.00	2.00	3.80	5.50
200.01 to $250.00	2.40	4.55	6.75
250.01 to $300.00	2.90	5.55	8.25
Over $300.00	(1)	(2)	(3)

[1] 1 percent of adjusted daily charge per participant.
[2] 2 percent of adjusted daily charge per participant.
[3] 3 percent of adjusted daily charge per participant.

(2) *Competitive use*—The fee for a competitive use permit is:

1984

$1.35 per user day or 3 percent of gross receipts, whichever is greater.

1985

$1.65 per user day or 3 percent of gross receipts, whichever is greater.

1986

$2.00 per user day or 3 percent of gross receipts, whichever is greater.

When use is both commercial and competitive, the competitive fee shall be charged. Gross receipts include total income which has been generated from the permitted activity before deducting costs such as insurance, prizes, other permit or license fees, etc. Gross receipts would also include total supplemental money collected through sponsor contributions, other donations, the sale of clothing, insignia, specialized equipment, or food and beverages when sold incidentally to the permitted activity.

(3) *Other uses*—For uses other than commercial or competitive, involving more than 50 vehicles including those of participants and spectators, or taking place in special areas for which permits are required, the fee is:

1984

$.50 per user day.

1985

$1.00 per user day.

1986

$1.50 per user day.

Allowances for proportional fees may be made, based on use of other lands along with public lands. Exceptions to the fees listed above may be granted only by written order from the Director.

D. Terms

1. *Permit length.* Some comments said a 5-year term for commercial permits is too long and others said it was too short. In the past, commercial permits have been issued on an annual basis. Processing these permits every year has been administratively costly. In order to reduce these costs, and to reflect a policy that commercial operators should be allowed an adequate opportunity to realize a return on their investments, a longer term was necessary. Therefore, we think a 5-year term is adequate. If it is determined that a permittee is performing unsatisfactorily, the permit may be revoked at any time during the term of the permit.

One comment suggested adding a statement regarding revocation of the permit. If, as a result of a performance evaluation or compliance check, a permittee's performance is found to be unsatisfactory, the authorized officer will modify or revoke the permit. Such a statement has been added to the final policy.

A comment suggested that a 5-year permit should only be valid if the permittee has paid annual fees and provided a copy of a valid insurance policy. Such a statement has been added.

Several comments stated that the development of performance standards by each individual authorized officer would result in inconsistencies between Bureau offices. The main purpose of this clause is to recognize and accommodate to the extent possible, performance standards established by State agencies and outfitter and guide organizations. Guidance on development of general performance standards, focusing on common Bureauwide goals, will be issued at a later date. These goals will be compared to standards of State agencies and outfitter organizations in developing the performance review standards. We shall strive for standards that are consistent Statewide and that assure quality services.

2. *Renewal of Permits.* Some comments favored the renewal policy saying it provides incentive for operators to continually upgrade their services and helps maintain a stable business environment. Other comments thought it was a permanent giveaway of public land uses. The main reason for allowing commercial or, in some cases, competitive permits to be renewed is to attempt to provide the best service possible to the user publics. If a permittee has been performing in a satisfactory manner throughout the term of the permit he/she would probably be

able to continue that record for another term. A permittee with past experience in a particular area would be quite knowledgeable about the physical and environmental resources of the area and could pass that knowledge on to his/her clients. Experienced outfitters would also be more knowledgeable of the technical skills required to safely guide their clients. Therefore, the authorized officer should give priority to existing commercial and some competitive permittees when issuing a new permit.

One comment asked whether the renewal policy applies to a permit issued to a bona fide educational or scientific institution. If the permit is commercial, the same policy applies. If the permit is awarded from the noncommercial allocation, it is not renewable.

3. *Transfer of Commercial Permit Privileges.* Many comments favored the transfer policy saying it allows outfitters to realize the value of their business and provides an opportunity for new people to enter the industry. Those opposed said this practice will lead to speculation on federally owned resources and result in higher prices to the consumer. One comment said that it represents the buying and selling of public access rights by private businesses. Another comment said the Bureau should regulate the fees charged by commercial permittees. Except for two statements of clarification that the policy on transfer of permit privileges shall be consistent with management plan decisions, this section remains unchanged in the final policy.

The main reason for this transfer provision is to encourage and sustain the services of qualified outfitters and guides. This practice is not a wholesale buying and selling of public rights. Each transfer of permit privileges must follow the specific procedure outlined in the final policy. Sale of authorized use only is specifically prohibited. With this and other conditions of the transfer policy, the authorized officer retains complete authority on the disposition of permit privileges, including the development of terms and conditions contained in the new permit. There is no authority for the Bureau to regulate the fees charged by permittees. However, if adequate competition exists among commercial permittees, the open market should stabilize fees at a reasonable level.

One comment suggested qualifying two consecutive use seasons in section D.3b(4), by adding "as defined by the management plan." The comment said that the additional phrase was necessary because the length of a use season may vary by activity. For instance, there could be a spring, summer, and fall use season, a total of three use seasons in one calendar year for one type of activity, and only a summer season each year for another type of activity.

Therefore, the suggested phrase has been added. Also added for clarity, to the last sentence of section D.3.c, is the phrase "according to the management plan allocation system."

4. *Allowable Use.* One comment requested a definition of "assignment of permit privileges." This means a permittee may not assign or otherwise transfer user days that he/she has been authorized to use. Only bona fide employees of the permittee of record may guide trips allocated to him/her.

Two comments asked if one year of emergency non-use would be allowed without jeopardizing future use allocations. When an area's maximum allowable use has been allocated, it is important to ensure the allocation is fully utilized. The authorized officer must determine if non-use is excusable without penalty of future adjustments. An important factor that will be considered is whether expected non-use is reported in sufficient time to allow reassignment of the use. If reassignment cannot be made, the permittee assigned the use will be responsible for the fee due the Bureau.

5. *Suspension.* One comment asked to know the purpose of this section. In certain situations it may be necessary for the authorized officer to temporarily suspend assigned authorized use for a period of time. Examples of such instances include periods of high fire potential, flooding conditions or high water, situations of potential health hazards or instances of potential degradation of environmental resources. These situations are usually temporary and will therefore not normally extend the life of the permit. Fees due the Bureau will be waived during periods of suspension.

9. *Bonds.* One comment suggested that payment bonds and Irrevocable Letters of Credit be added to this provision. Existing regulations at 43 CFR 8372.5(c) discuss bonding requirements and address these suggestions of adding other types of bonds. Therefore, to avoid confusion, this section is amended to conform to the existing regulations at 43 CFR 8372.5(c).

10. *Insurance.* One comment objected to the requirement for insurance, stating that insurance is unnecessary because State law indemnifies the Government. The specific State law referred to (Idaho statute 36–1604) does not apply when fees are charged. Also, all States in which the Bureau issues special recreation permits have not passed similar legislation.

11. *Violation of Law.* Some comments were confused by this provision and specifically wanted to know what kind of convictions could result in permit cancellation. The existing regulations at 43 CFR 8372.5(f) are more definitive on this requirement and, therefore, this section of the policy is amended to conform to the regulation.

E. Appeals

One comment suggested citing the appeals regulations. This was done. The Department of the Interior's appeal regulations are contained in 43 CFR 4.400 and appeal regulations regarding special recreation permits are contained in 43 CFR 8372.6, as amended.

F. Monitoring for Compliance

One comment requested a description of specific monitoring techniques. Further guidance on monitoring for compliance will appear in future Bureau directives. It is not appropriate to include that level of detail in this policy document.

G. Enforcement

Some comments questioned the Bureau's capabilities to enforce permitting requirements and suggested the need for citation authority. Enforcement of this policy and regulations on special recreation permits is authorized by Section 303 of the Federal Land Policy and Management Act. Citation authority has been granted to the Bureau by the Secretary and may be delegated only to fully trained law enforcement personnel. In addition, the Bureau may enter into contracts with local officials having law enforcement authority to enforce compliance with special recreation permits within its jurisdiction. The need for, and options to provide additional citation capability, is currently being evaluated by the Bureau.

In response to comments on the proposed special recreation regulations pertaining to prohibited acts, a fifth act was added to the four listed. The same comment was received on the policy and therefore the same fifth prohibited act is added to Section G.a. It states: "(5) fail to show a copy of the special recreation permit to a Bureau of Land Management employee or a participant upon request."

One comment wanted to know if authorized users as well as unauthorized users are subject to civil suit. Yes they are. This provision has been amended accordingly.

One other comment, not addressing any specific section of the proposal

policy, requested clarification of the term "public lands" as used in the policy. For the purposes of this policy, "public lands" means any land or interest in land administered by the Bureau of Land Management, and waters related thereto. Where appropriate, the policy has been amended to reflect this meaning and this definition has been added to the "notes" section of the policy.

Dated: January 31, 1984.

Robert F. Burford,

Director.

Special Recreation Permit Policy

A. General Policy.

1. *Basic Objectives.* The basic objectives of the Bureau of Land Management's (BLM's) special recreation permitting system are to satisfy recreational demand within allowable use levels in an equitable, safe and enjoyable manner while minimizing adverse resource impacts and user conflicts.

2. *Consistency With Planning.* Special recreation permits are managed in a manner which is consistent with management objectives determined in resource management plans, recreation area management plans, or in their absence, through recreation management objectives resulting from analysis of resources and visitor use for each area (recreation opportunity spectrum classes).

3. *Privilege.* In issuing special recreation permits to recreational users of public lands, BLM consents to use of the land and/or related waters for the permitted purposes. This represents a privilege to use public lands and/or related waters which is subject to the terms and conditions of the permits.

4. *Permits Required.* Special recreation permits are issued for specific recreational uses of the public lands and related waters. They are issued as a means to control visitor use, to protect recreational resources, and as a mechanism to accommodate commercial recreational uses. Authorized by the Land and Water Conservation Fund Act, there are four types of uses for which these permits are required—commercial, competitive, off-road vehicle use involving 50 or more vehicles, and individual or group use in special areas. (See definitions in 43 CFR 8372.)

There are three exceptions to these permit requirements. Special recreation permits are not required when: (1) BLM sponsors, or co-sponsors uses, such as activities that take place as a result of cooperative or volunteer agreements; (2) the authorized officer *(1)* (See notes at the end of this policy.) determines that permits and fees are unnecessary where a use or event begins and ends on non-public lands or related waters, traverses less than 1 mile of public lands or one shoreline mile, *and* poses no threat of significant damage to public land or water resource values; and (3) the authorized officer waives the permit and fee requirements for competitive events that are not commercial when the events comply with off-road vehicle designations for the use area, no cash prizes are awarded, less than 50 vehicles are involved, there is no public advertising for the event, and there is no threat of significant damage to public land or water resource values, or need for monitoring.

5. *Allocation of Use.* As the use in a recreation area increases, one of the actions taken by the authorized officer is to determine the desired level of use or the carrying capacity *(2).* When necessary, carrying capacities are set in accordance with decisions in the management plan for each area or, in the absence of management plans, through recreation management objectives resulting from analysis of resources and visitor use for each area (recreation opportunity spectrum classes).

If the use level in the area exceeds the carrying capacity, measures must be taken to remedy the problem. Indirect visitor and resource management techniques such as controlling public land access, interpretive efforts to promote environmental awareness and protection, providing extra protection for fragile resources, encouraging voluntary scheduling of commercial trips, or other mitigating measures to resolve user conflicts are used before resorting to direct management methods such as allocating use among users.

When the need for more direct management methods is apparent, use opportunities are allotted between and rationed within competing types of uses. This allocation consists of imposing limits on users who participate in similar types of recreation activities. These limits may effect: (1) The overall number of individuals, (2) the number of groups or parties, (3) the number of individuals per group and/or the number of users by sector (e.g., commercial, competitive, or individual/group use).

The following are BLM's allocation goals:

a. Manageability—allocation methods must be workable, implementable, defensible to users, and within legal and budgetary constraints.

b. Flexibility—the method used must be responsive to the relative amount of use and to demand shifts.

c. Fairness and Equity—to the greatest extent possible, for all concerned.

d. Maximization of experiences and allowable use.

e. Minimization of resource impacts and user conflicts.

B. Issuance of Permits.

When the desired use is within the maximum allowable use level determined for the area and the applicant meets any minimum standards which are required to conform with management plan decisions or by State or local agencies, all special recreation permits are generally issued on a first-come-first-served basis. In States requiring commercial or competitive licenses, such licenses must be obtained in order to receive a special recreation permit. Where possible, a sufficient number of commercial permits are issued to encourage competition among permittees.

When an area's desired use level has been reached, no additional permits will be issued. New permits may become available when:

1. An area's desired use level (carrying capacity) is increased. Desired use levels could be expanded, for example, by increasing the number of allowable users within a use season or by lengthening the season.

2. A permit is revoked or not renewed because of non-compliance.

3. A permittee voluntarily relinquishes a permit.

4. New opportunities become available.

New commercial and competitive permits may be: (1) Awarded according to historical use, (2) limited to existing permit holders, (3) awarded by a competitive system, or (4) awarded by a combination of methods. For example, two or more current commercial permittees may be marginally economical and the additional allocation or capacity may help ensure better service to the public. In such cases, those competing for the permit may be limited to existing commercial permittees.

New permits for other uses may be: (1) Awarded on a first-come, first-served basis, (2) selected from a waiting list, or (3) awarded by a non-competitive system such as a lottery.

In areas where use exceeds the desired use levels, or when the management plan indicates decreases in the use level are necessary, the reductions are generally accomplished proportionally for all types of permit holders in each particular area or through voluntary reductions. Another method which may be used to reduce use is to award fewer permits. In this

method; subsequent commercial and competitive permits may be awarded according to historical use (3), limited to existing commercial permit holders; by a competitive system, or by a combination of methods.

C. Fees. Fees are charged for these permits to meet two objectives: primarily to recover at least a portion of the cost of issuing and administering the permits; and, where possible, to provide a return for special use of public lands. Fee levels are set with these objectives in mind after study of the direct and indirect cost (4) to the government, the benefits to the recipient, the public policy or interest served, the comparable recreation fees charged by Federal and non-Federal public agencies and the private sector, the economic and administrative feasibility of fee collection, and other pertinent factors such as the value of the use privilege conferred. In most cases these levels provide for recovery of the costs of the permits and in some cases, notably commercial recreation uses, provide a return to the Government for the use of the land.

Permit fees shall be nonrefundable where the amount of intended use is determined in the application, except when notification of whole or partial cancellation is made in sufficient time to allow reallocation of use to others.

Permits may be required but fees are not charged for uses for educational or scientific purposes, regardless of whether the use is commercial, so long as the use is not primarily recreational. Applicants on this basis must, however, compete for use allocation in those areas where use is limited (e.g., for allocation purposes, those applicants who meet the definition of commercial compete for commercial permits while others compete for noncommercial permits). Applicants for waiver of fees on this basis may be required to provide documentation of their official recognition as educational or scientific institution by Federal, State or local government bodies.

D. Terms.

1. *Permit length.* Commercial permits are generally issued for five years. Other types of permits may be issued for a day, season of use, or any other time period considered appropriate by the authorized officer for the intended use. Criteria used to determine appropriate permit length include management objectives, the time necessary to amortize the permittee's investment, resource management planning timeframes, the environmental risks involved, public demand for the intended use, and the permittee's past performance. A multi-year permit will only be valid if the permittee has paid annual fees and provided a copy of a valid insurance policy.

At a minimum, an annual evaluation of each multi-year permit is completed to evaluate performance and compliance with terms and conditions of the permit, determine if use still complies with management plan objectives, and review of past year receipts to determine over or under payment.

For commercial special recreation permits, the authorized officer develops performance review standards in consultation with the permittee, State fish and game agencies, State outfitter licensing boards, councils, and other State and Federal land managing agencies. These performance standards are included in each permit. If, as a result of a performance evaluation or compliance check, a permittee is found to have performed unsatisfactorily, the authorized officer will modify or invalidate the permit.

2. *Renewal of Permits.* Only multi-year commercial and competitive permits may be renewed. At the end of the term of each permit a review of the permit similar to the annual review indicated above is conducted. If the permittee applies for another permit and it is determined that the permittee satisfactorily met the requirements of the previous permit and continued use is consistent with the management plan, the authorized officer should show preference to that permittee in issuing a new permit. Unsatisfactory performance may lead to denial of the permit applications.

3. *Transfer of Commercial Permit Privileges.* On occasion, existing permittees may wish to sell or otherwise terminate their business and desire the permit privileges be transferred to a new owner. This might occur either at the end of the existing permit period or prior to expiration of the existing permit. Procedure for this type of transfer is as follows:

a. When an existing permittee wishes to have the permit privileges transferred to a potential new owner of his/her business the permittee must so notify the authorized officer in writing.

b. The authorized officer will consider the following in determining whether to allow the transfer:

(1) The new applicant must agree to provide the type and size of operation specified in the management plan.

(2) The new applicant must be able to meet any standards required in conformance with management plan decisions or by State or local agencies (this includes standards of outfitter/guide licensing boards in States with licensing requirements).

(3) Adequate documentation must be provided to the authorized officer that a bona fide business transfer or sale is intended. The transfer or sale must include a substantial portion of the equipment and other tangible assets needed to conduct a business. Any attempted transfer or sale of authorized use *only* is not allowed.

(4) Generally, the previous permittee should have operated to an acceptable standard for at least two consecutive use seasons, as defined by the management plan, before requesting a transfer of the permit privileges.

c. If the new applicant has demonstrated the ability to meet the above conditions and has met State and local requirements (as applicable), the authorized officer should reissue the permit. The new permit may contain terms and conditions that vary from the previous permit, including the number of authorized user days and the length of the permit period according to the management plan allocation system.

4. *Allowable Use.* The amount and type of use allowed under each permit is set by the authorized officer in conformance with management objectives. Modifications of permit terms within the permit period, including user days or other changes, are allowed only with approval of the Authorized Officer and must be consistent with the management plan. Assignment of permit privileges is not allowed. Consistent non-use of user days by a permittee may be a determining factor in future use allocations and award of permits.

5. *Suspension.* The authorized officer may suspend a special recreation permit if necessary to protect public health, public safety, or the environment. Such suspensions have no effect on the expiration date of the permit.

6. *Area of land.* Special recreation permits are issued for only the minimum amount of land needed for the intended use. If, in the judgment of the authorized officer, additional land is needed, a permit may be amended to include the necessary land.

7. *Inspection of records and accounts.* The authorized officer, or any other duly authorized representative of the Bureau, may examine any of the permittee's records or other documents related to the permit for up to three years after expiration of the permit.

8. *Stipulations.* The authorized officer may require the permittee to comply with any reasonable stipulations or conditions necessary to protect the lands or resources involved and the public interest in general. The permittee's compliance with these stipulations may be monitored at

various intervals depending on the type of use involved, the resource values at risk, the permittee's past record of compliance, and other factors. Failure to comply with stipulations or conditions may result in permit cancellation, criminal sanctions, or civil suit.

9. *Bonds.* In addition to a payment bond, the authorized officer may require the posting of a cash or surety bond or other guarantee in such form and in such amount as the authorized officer determines to be sufficient to defray the costs of restoration and rehabilitation of the lands affected by the permitted use. Bonds and guarantees will be returned to the permittee upon satisfactory compliance with all permit stipulations, including restoration and rehabilitation requirements.

10. *Insurance.* Insurance is required of all commercial and competitive permittees to provide restitution for damage or injury to the public or to privately owned resources, and to protect the United States from suit resulting from actions taken or caused by the permittee or participants in a permitted use.

11. *Violation of law.* The conviction for a violation of any Federal or State law or regulation concerning the conservation or protection of natural resources, the environment, endangered species, or antiquities that is related to said special recreation permit may result in the cancellation of the permit.

E. *Appeals.* The decisions of the authorized officer regarding special recreation permits may be appealed to the Interior Board of Land Appeals in accordance with procedures in 43 CFR 4.400. However, such decisions remain in effect pending appeal, unless ruled otherwise by the Secretary of the Interior. Petitions for stay of decisions may be made to the Secretary. Also, any person who participated in the planning process and has an interest which is or may be adversely affected by the approval or amendment of a resource management plan may protest such approval or amendment. A protest may raise only those issues which were submitted for the record to the District Manager during the planning process. Protest procedures and requirements are found at 43 CFR Part 1600.

F. *Monitoring for Compliance.* Permits are monitored for compliance with terms and conditions. The amount of such monitoring is commensurate with the resource values at risk, the permittees' past record of compliance, and other factors. This monitoring includes checking to ensure that all permitting requirements have been met. In addition, the Bureau also relies on permittees to report unauthorize use. When noncompliance or unauthorized use is encountered the Bureau seeks voluntary compliance. If voluntary compliance efforts and other administrative remedies, such as cancellation of permits, are unsuccessful the Bureau must resort to enforcement.

G. *Enforcement.* When voluntary and administrative means of gaining compliance fail, enforcement of criminal and civil sanctions related to the permitting requirements is in the interest of long-term management of BLM's recreation resources.

a. Criminal penalties. Persons who commit prohibited acts are subject to criminal penalties under the Land and Water Conservation Fund Act (conviction can result in a fine of up to $100) and the Federal Land Policy and Management Act (conviction can result in a fine of up to $1000 and/or one year imprisonment). These prohibited acts include:

(1) Failure to obtain a permit or pay a fee required by the special recreation permit regulations;

(2) Violation of stipulations or conditions of a permit issued under authority of the regulations;

(3) Knowingly participating in an event or use subject to the permit requirements of the regulations where no such permit has been issued. This extends criminal sanctions to participants in unauthorized events and is likely to deter many participants from knowingly becoming involved in unauthorized events. Proof of intent to participate in the unauthorized event or use knowingly would be required for conviction;

(4) Failure to post a copy of any commercial or competitive permit in plain view where all participants have the opportunity to read it. This makes participants aware that the use is authorized and it also makes them aware of the conditions of the permit. Participants can report permit violations to BLM;

(5) Failure to show a copy of the special recreation permit to a Bureau of Land Management employee or a participant upon request.

b. Civil suit. Authorized as well as unauthorized users are subject to civil suit. The Bureau will seek penalties based on the amount of fees (lost revenue had a permit been issued), the cost of repair and/or rehabilitation of any damage caused by the use, and the value of irreparable resource damage. The Bureau can, under regulations in 43 CFR 9239.0–9(b), refuse to sell timber or materials, or to issue a lease or permit to unauthorized users who have been served with a demand for payment and the authorized officer has reason to believe payment will not be made.

Notes

(1) *Authorized Officer.* Any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described herein. A document listing such delegation of authority may be reviewed in each BLM District Office.

(2) *Carrying Capacity.* Carrying capacity is the amount and type of recreational use an area can accommodate without altering either the environment or the user's experience beyond the degree of change deemed acceptable by the management objectives for the area. This can also be called the maximum allowable use level.

(3) *Historical Use.* This is generally defined as the average of the highest two use seasons in the preceding five-year period.

(4) *Direct Costs.* These are costs incurred, after an application for a special recreation permit has been received, to process the application, to issue the permit, and to ensure compliance with the terms of the permit. These include labor costs, travel and per diem, vehicle mileage, supplies needed for that particular permit, and other costs directly attributable to the permit. Services normally provided whether or not permits are issued, such as law enforcement, search and rescue, work done prior to the receipt of the application, and other normal operating costs are *not* included.

Indirect Costs. These are overhead costs affected by the permitting activities, expressed as a percentage of the total direct costs. The percentage for Fiscal Year 1984 is 17 percent. Field offices are notified in advance if a change in the percentage is necessary (the indirect cost rate is based on annual analysis of actual indirect costs for the previous year).

(5) *Public Lands.* For the purposes of this policy, "public lands" means any land or interest in land administered by the Bureau of Land Management, and waters related thereto.

[FR Doc. 84-3692 Filed 2-9-84; 8:45 am]
BILLING CODE 4310-84-M

APPENDIX E

NON-COMMERCIAL RIVER TRIP APPLICATION AND PERMIT

UT-060-8372-1
APR: 83

No._____

U.S. Department of the Interior
Bureau of Land Management
Moab District - Utah

1. _____
Name of Trip Leader or Sponsor

_____ _____
Street or Box No. Phone

_____ _____
City, State and Zip Code Name of River

2.

Launch Point	Requested Date	Takeout Point	Date
_____	(1st) _____	_____	_____
	(2nd) _____		_____
	(3rd) _____		_____

3. Number of Persons in Group: _____

4.

Make and Model of Boat(s):	Number of Each:	Motor Used: (Yes or No)
_____	_____	_____
_____	_____	_____
_____	_____	_____

5. Proposed Campsites:

Campsite	Date	Campsite	Date
(1) _____	_____	(5) _____	_____
(2) _____	_____	(6) _____	_____
(3) _____	_____	(7) _____	_____
(4) _____	_____	(8) _____	_____

6. I hereby agree to abide by the conditions and stipulations attached to this permit. I understand that the permit is revocable due to any violation of the stipulations hereof or at the discretion of an authorized officer of BLM.

_____ _____
Date Signature of Applicant

This permit is:

____ Approved subject to final approval by a BLM Ranger, after prelaunch check for compliance with the attached stipulations.

____ Rejected for reasons below.

_____ _____
Date Area Manager

_____ _____
Date Approving Ranger

USDA FOREST SERVICE

PLAN TO IMPLEMENT

THE BOUNDARY WATERS CANOE AREA WILDERNESS ACT

(PUBLIC LAW 95-495)

Submitted by:

Robert O. Rehfeld
Forest Supervisor
Superior National Forest

10/22/81
Date

Approved by:

Steve Yurich
Regional Forester
Eastern Region

10/27/81
Date

Wilderness Element	Objective	Action	Target Date
	4. Identify and define all remaining rights and inholdings.	4. a. Inventory structures associated with reserved rights and prepare a plan for their maintenance/disposal after expiration of reserved rights. (See Appendix I.)	1983
	5. Provide orderly elimination of structures and facilities that no longer provide justifiable service or are inconsistent with wilderness management objectives.	5. a. Continue use of fire grates and toilets because they are important resource protection facilities.	Continuing
		b. Signing will be kept to a minimum. Signs will not be erected or maintained except in situations involving safety, inconspicuous portages, confusing situations, portages from motorized to nonmotorized lakes, and all trail termini and junctions.	Continuing
		c. Inventory old roads, railroad portages (other than Beatty and Loon), wells, and similar accessory structures. Remove facilities and perform restoration of land if necessary.	1983
		d. Allow concrete statue on Brule Lake to remain while the Forest Service studies the possibility of relocating the statue.	Continuing
		e. Evaluate the cultural significance and cost of maintenance of the Brule Lake fire tower. Based on findings, maintain or remove the fire tower.	1983
		f. Based on a cultural resource evaluation, remove Forest Service volunteer cabins on Knife and Cypress Lakes when current Forest Service volunteers no longer occupy the cabins.	Within 2 years of vacating
		g. Perform cultural resource evaluations on Forest Service crew cabins on Lac La Croix, Crooked, and Kekekabic Lakes.	1983
		(1) Based on cultural resource findings, plan maintenance/removal of cabins.	1985
		h. Encourage the State of Minnesota to review the need for their cabins on Insula and Little Saganaga Lakes and plan for maintenance or removal.	1981
→	6. Manage the BWCA in a cost-effective manner that provides protection of the wilderness resource.	6. a. Shorten the permit season to May 1 through September 30. The small number of visitors during the off-season does not justify issuing permits	1981
		b. Accept Wilderness permit reservations no earlier than February 1.	1982
		c. Establish a nonrefundable fee for each party making overnight reservations. This is being done to discourage those who make multiple reservations as a tactic to assure entry which results in many no-shows. Permits applied for less than 48 hours before the permit date will not be charged this fee.	1982
		d. Seek authority to establish a use fee for visiting the BWCA.	Continuing

[1952 - ID CHARGES, ACT OF AUGUST 31, 1951 (65 Stat. 290; 5 U.S.C. 140). 1951

It is the sense of the Congress that any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency (including wholly owned Government corporations as defined in the Government Corporation Control Act of 1945) to or for any person (including groups, associations, organizations, partnerships, corporations, or businesses), except those engaged in the transaction of official business of the Government, shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation (which, in the case of agencies in the executive branch, shall be as uniform as practicable and subject to such policies as the President may prescribe) to prescribe therefor such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts, and any amount so determined or redetermined shall be collected and paid into the Treasury as miscellaneous receipts: Provided, That nothing contained in this title shall repeal or modify existing statutes prohibiting the collection, fixing the amount, or directing the disposition of any fee, charge or price: Provided further, That nothing contained in this title shall repeal or modify existing statutes prescribing bases for calculation of any fee, charge or price, but this proviso shall not restrict the redetermination or recalculation in accordance with the prescribed bases of the amount of any such fee, charge, or price.

FEB 21 1985

EXECUTIVE OFFICE OF THE PRESIDENT
BUREAU OF THE BUDGET
WASHINGTON 25, D.C.

September 23, 1959 CIRCULAR NO. A-25

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: User Charges

1. Purpose. Bureau of the Budget Bulletin No. 58-3 of November 13, 1957, set forth some general policies for developing an equitable and uniform system of charges for certain Government services and property. This Circular incorporates the policies contained in that Bulletin and gives further information with respect to: (a) the scope of user charge activities; (b) guidelines for carrying out the approved policies; and (c) agency submission of periodic status reports. It also prescribes Standard Form No. 4 on which periodic status reports are required.

Because this Circular applies also to the areas previously covered by Bureau of the Budget Circular No. A-28 of January 23, 1954, that Circular is hereby rescinded.

2. Coverage. Except for exclusions specifically made hereafter, the provisions of this Circular cover all Federal activities which convey special benefits to recipients above and beyond those accruing to the public at large. The specific exclusions which continue to be governed by separate policies are fringe benefits for military personnel and civilian employees; sale or disposal under approved programs of surplus property; postal rates; interest rates; and fee aspects of certain water resources projects (power, flood control, and irrigation). In addition this Circular does not apply to activities of the legislative and judicial branches, the municipal government of the District of Columbia, the Panama Canal Company or the Canal Zone Government.

3. General policy. A reasonable charge, as described below, should be made to each identifiable recipient for a measurable unit or amount of Government service or property from which he derives a special benefit.

a. Special services.

(1) Where a service (or privilege) provides special benefits to an identifiable recipient above and beyond those which accrue to the public at large, a charge should be imposed to recover the full cost to the Federal Government of rendering that service. For example, a special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:

(a) Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public (e.g., receiving a patent, crop insurance, or a license to carry on a specific business); or

(b) Provides business stability or assures public confidence in the business activity of the beneficiary (e.g., certificates of necessity and convenience for airline routes, or safety inspections of craft); or

(c) Is performed at the request of the recipient and is above and beyond the services regularly received by other members of the same industry or group, or of the general public (e.g., receiving a passport, visa, airman's certificate, or an inspection after regular duty hours).

(2) No charge should be made for services when the identification of the ultimate beneficiary is obscure and the service can be primarily considered as benefitting broadly the general public (e.g., licensing of new biological products).

b. Lease or sale. Where federally owned resources or property are leased or sold, a fair market value should be obtained. Charges are to be determined by the application of sound business management principles, and so far as practicable and feasible in accordance with comparable commercial practices. Charges need not be limited to the recovery of costs; they may produce net revenues to the Government.

4. Agency responsibility. The responsibility for the initiation, development, and adoption of schedules of charges and fees consistent with the policies in this Circular continues to rest with the agency. Each agency shall:

a. Identify the services or activities covered by this Circular;

b. Determine the extent of the special benefits provided;

c. Apply accepted cost accounting principles in determining costs;

d. Establish the charges; and

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e. In determining the charges for the lease and sale of Government-owned resources or property, apply sound business management principles and comparable commercial practices.

5. Cost, fees and receipts, and their determination.

a. Determination of costs. Costs shall be determined or estimated from the best available records in the agency, and new cost accounting systems will not be established solely for this purpose. The cost computation shall cover the direct and indirect costs to the Government of carrying out the activity, including but not limited to:

(1) Salaries, employee leave, travel expense, rent, cost of fee collection, postage, maintenance, operation and depreciation of buildings and equipment, and personnel costs other than direct salaries (e.g., retirement and employee insurance);

(2) A proportionate share of the agency's management and supervisory costs;

(3) A proportionate share of military pay and allowances, where applicable;

(4) The costs of enforcement, research, establishing standards, and regulation, to the extent they are determined by the agency head to be properly chargeable to the activity.

b. Establishment of fees to recover costs. Each agency shall establish fees in accordance with the policies and procedures herein set forth. The provisions of this Circular, however, are not to be construed in such a way as to reduce or eliminate fees and charges in effect on the date of its issuance. The maximum fee for a special service will be governed by its total cost and not by the value of the service to the recipient. The cost of providing the service shall be reviewed every year and the fees adjusted as necessary. In establishing new fees and increasing existing fees the agency may make exceptions to the general policy (paragraph 3, above) under such conditions as illustrated below.

(1) The incremental cost of collecting the fees would be an unduly large part of the receipts from the activity.

(2) The furnishing of the service without charge is an appropriate courtesy to a foreign country or international organization; or comparable fees are set on a reciprocal basis with a foreign country.

(3) The recipient is engaged in a nonprofit activity designed for the public safety, health, or welfare.

(4) Payment of the full fee by a State, local government, or nonprofit group would not be in the interest of the program.

c. Disposition of receipts. Legislative proposals shall generally avoid disturbing the present rule that collections go into the general fund of the Treasury as miscellaneous receipts. However, exceptions may be made where:

(1) It is intended that an agency or program or a specifically identifiable part of a program be operated on a substantially self-sustaining basis from receipts for services performed or from the sale of products or use of Government-owned resources or property.

(2) The agency can show that the initiation or increase of fees or charges is not feasible without earmarking of receipts.

(3) The receipts are in payment of the cost of authorized special benefits for which the demand is irregular or unpredictable, such as inspections performed upon request outside the regular duty hours.

This Circular is not intended to change the present system of sharing with States and counties receipts from the lease of certain lands and the sale of certain resources.

6. Changes in existing law. In cases where collection of fees and charges for services or property in accordance with this Circular is limited or restricted by provisions of existing law, the agencies concerned will submit appropriate remedial legislative proposals to the Bureau of the Budget under the established clearance procedure, as provided in Bureau of the Budget Circular No. A-19.

7. New activities. In the establishment of new Federal activities which would provide special benefits, the agencies concerned are to apply the policies and criteria set forth in this Circular.

8. Reports to the Bureau of the Budget. Each agency shall make a report by December 31, 1959, for each bureau or comparable organizational unit, of the costs and charges for all services or property covered by this Circular, and shall also make a report of changes not later than

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December 31 of each succeeding year as a result of its annual review of such costs and charges. The initial report for any new agency hereafter established (including those established by reorganization) shall be submitted on December 31 following the end of the first fiscal year during which the agency was in operation. Each report shall cover the situation as of the preceding June 30, and shall be prepared in accordance with the instructions set forth in the attachments to this Circular.

By direction of the President:

MAURICE H. STANS
Director

Attachments

APPENDIX I

NOTES OF BWCA MEETING IN ELY

October 20, 1981

Present: Chuck Anderson, John Adnerson, Jerry Jussila, Tom Misiano, Gini Coyle, Jim Higgins, John Kuyava, Steve Anderson, Toivo Sober, Jackie Wannemacher, Barb Soderberg

Procedures for implementing the BWCA Reservation Fee were discussed and agreed upon as follows:

1. Amount will be $4.00 per overnight trip.
2. Non-refundable
3. No cash by mail.
4. No phone reservations, (may consider a deposit by outfitters, to be drawn against when reservations are made).
5. Must have 14-day lead time for mail reservations (must be received 14 days before trip).
6. No charge for reservations 48 hours, or less, before trip.
7. Implement for 1982 season.
8. Reservation form will be provided (with alternative dates and entry points).
9. Changes of entry point or date will require cancellation of first reservation and new fee payment.
10. Administration restraints to be checked out by Arnie Sartori.

CRITERIA FOR DETERMINING THE AMOUNT

1. Must be high enough to reduce no-shows.
2. Should recover 100% of cost of handling reservation (not counting actual permit writing). Forest-wide cost is about $160M for all permit work, 50% of that is for handling the reservations.

BASIS FOR THE BWCA RESERVATION FEE

The cost of operating the permit system was estimated for each District by attendees at the October 20, 1981 meeting at the VVC approximately as follows:

District	Cost of Making Reservations	Other Permit Work	Total Cost of Permit Operation
Gunflint	18,000	18,000	36,000
Isabella	4,000	4,000	4,000
Kawishiwi	40,000	40,000	80,000
LaCroix	10,000	10,000	20,000
Tofte	8,000	8,000	8,000
	$80,000	$80,000	$160,000

$\frac{\$80,000}{20,000 \text{ Reservations}}$ = $4.00/Reservation (no changes allowed)

Later phone conversations with VVC meeting participants added the provision for allowing one change on each reservation. The additional administrative cost of making this change was estimated at $1.00.

The proposed fee therefore, is based on the total cost of handling the reservation:

$4.00	Make Reservation
1.00	Provision for one change
$5.00	Cost for each trip reserved.

Federal Register

Wednesday
August 29, 1984

Part II

Department of the Interior

Bureau of Land Management

43 CFR Part 8370

Use Authorizations; Amendment of Subpart 8372—Special Recreation Permits, Other Than on Developed Recreation Sites; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8370

[Circ. No. 2551]

Use Authorizations; Amendment of Subpart 8372—Special Recreation Permits, Other Than on Developed Recreation Sites

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking amends 43 CFR Subpart 8372—Special Recreation Permits, Other Than on Developed Recreation Sites, by clearly stating the actions specifically prohibited under the regulations and the penalties that would apply upon conviction. It states the grounds for exemption from Special Recreation Permit requirements, authorizes the Director of the Bureau of Land Management to set recreation permit fee schedules to help reimburse the United States for administrative costs incurred in permitting recreational use of public lands, replaces the requirements that an applicant for a waiver of fees submit documentation of its official recognition as an educational or scientific institution with discretion on the part of the authorized officer to require such documentation, allows commercial educational users to obtain such waivers, and states the appeals procedures.

EFFECTIVE DATE: September 28, 1984.

ADDRESS: Inquiries or suggestions should be sent to: Director (340), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Bruce Brown, (202) 343-9353.

SUPPLEMENTARY INFORMATION: The proposed rulemaking revising the special recreation permit regulations was published in the Federal Register on May 6, 1983 (48 FR 20630), and, because of a production error in the Federal Register, republished on May 18, 1983 (48 FR 22452). Comments were invited for a period of 60 days beginning May 18, 1983, during which period a total of 111 comments were received addressing the proposed regulations, with 25 coming from outfitters, 1 from an office of a Federal agency, 2 from attorneys, 9 from associations, 4 from States, 1 from local government, 66 from individuals, and 3 from educational institutions. In addition, 84 comments were received on the proposed recreation permit policy published in the Federal Register on April 8, 1983 (48 FR 15275), many of which discussed the proposed regulations as well. All of the comments have been given careful consideration during the decisionmaking process on this final rulemaking.

There were wide variations in the subject matter of, and the positions taken in, the comments on the proposed rulemaking. Some comments supported the proposed rulemaking in general, many opposed it for various general reasons. Numerous comments opposed the fee schedule published in the preamble of the proposed rulemaking. In addition, several comments addressed the proposed special recreation permit policy published in the Federal Register on April 8, 1983 (48 FR 15275), and several others referred to the proposed policy of the U.S. Forest Service. These comments were considered to the extent their applicability to this rulemaking could be determined.

Many of the comments contained discussions of specific sections of the proposed rulemaking and recommended changes, some of which have been adopted by the final rulemaking. This preamble will only discuss those sections that were the subject of specific comments.

Special Recreation Permit Fee Schedule

The schedule of permit fees published in the preamble of the proposed rulemaking generated numerous comments addressing several different aspects of the schedule.

Some comments addressed the authority to establish fees, the possibility of using the Consumer Price Index to guide annual fee increases, various specific fee rates, the amount of environmental degradation likely as a basis for setting fees, and the specific fee schedule each type of permittee is required to pay.

Some stated, in general terms, that the whole matter of permit fees should be further studied before fees are decided upon. However, the Bureau of Land Management is required by 43 CFR 8372.4 to charge use fees for special recreation permits. The fee schedule reflects the criteria for establishing such fees as described in section 4(d) of the Land and Water Conservation Fund Act, and is fair and equitable. Moreover, the Bureau is authorized to adjust the fees should it proves necessary or desirable to do so.

One comment suggested that fees be pegged to the Consumer Price Index. The Consumer Price Index does not reflect the true increase in value of recreation compared to that of the other elements used to calculate the Index. Inflation in the costs of other commodities and services has not been as rapid as that in the cost of recreation.

One comment preferred a flat fee, amount unspecified, for all recreational users of the public lands plus an additional fee for commercial outfitters of 3 percent of their adjusted gross receipts. The user day fee schedule for commercial permits is tied to the charges the operators assess their clients. This schedule includes both the cost of issuing and administering the permit and a charge for the opportunity to make a profit using Federal resources. Applicants for competitive permits are assessed a flat fee or percentage of gross, which also represents the cost of issuing and administering the permit plus a return for the use of Federal resources. Other special recreation permits are issued at a flat user day fee that represents the average cost of issuance and administration of these permits.

Some comments argued that certain users of public lands should be charged greater fees because of the greater impact of their preferred recreation on the environment. The criteria for establishing fees are set forth in section 4(d) of the Land and Water Conservation Fund Act (16 U.S.C. 460/-6(d)). This law requires consideration to be given to the benefits received by the recipient, the direct and indirect cost to the Government, the public policy or interest served, the comparable recreation fees charged by non-Federal public agencies, the economic and administrative feasibility of fee collection and other pertinent factors. There is no specific provision for basing fees on the degree of environmental impact. Such a criterion would be very difficult to establish since monetary value assigned to environmental degradation would be difficult to determine, be highly controversial, and create a wide range of fees that could not be adequately justified. However, environmental impact it considered in reviewing a permit application. The National Environmental Policy Act, through the environmental analysis-environmental impact statement process, enables the authorized officer to determine how the event or activity affects the environment. Also, as required in 43 CFR 8372.5(b), stipulations to mitigate adverse impacts are made part of the terms and conditions of the permit, if it is issued. In an environmental impact statement is required, the cost of that process will be assumed by the applicant.

(1) Commercial Use

Several comments stated that the proposed fee increases for commercial outfitters would be consumed by bookkeeping costs for the Bureau and greatly add to such costs of the outfitters. They felt the means of calculating and collecting fees would be too complex for all concerned.

Other comments said that 3 percent of the adjusted daily charge of commercial outfitters would be too high and would drive some out of business. They suggested no more than a 1 percent fee. Others stated that 3 percent of the adjusted daily charge would not be enough suggesting 5 percent to reflect the profit making opportunities afforded commercial outfitters.

Some comments urged that the commercial fee should be the same flat rate for all commercial permittees. This proposal has been rejected because it would impose unfair burdens and disproportionate costs on outfitters with low daily charges. Some outfitters provide very limited services, such as cross-country ski trail marking and grooming, for which they charge a small amount, while other outfitters may provide very costly services such as transporting skiers by helicopter. If the cross-country ski operator was to pay the same permit fee as the helicopter ski operator, it would represent a much greater percentage of the cross-country operator's income.

One comment suggested that commercial outfitters should pay no less than the oil and gas lease royalty rate, 12½ percent, for their use of the public lands, and that private recreationists should pay no more per day than do ranchers to graze livestock on the public lands, which currently is $0.046 per day per animal. Fees for grazing allotments and oil and gas production are established by separate enabling legislation and have no bearing on recreation use or fees.

Some comments said that the $100 minimum permit fee is excessive considering that they only outfit a limited number of commercial trips each year. This fee is not excessive because it is intended to attempt to recover the cost of issuance and it applies to a permit with a term of up to 5 years.

Others comments suggested that outfitters who charge high prices should pay a proportionally smaller fee because they relieve the Government of having to provide as many services to their clients. There is no justification for charging higher-cost commercial outfitters lower permit fees based on level of impact or service provided. Permit fees relate to administrative cost and value to the user, not environmental impact or services offered. It is not reasonable to expect that the United States would or should supply services for the public that are normally provided by outfitters.

After considering all these comments there did not appear to be enough justification to modify the commercial fee schedule contained in the proposed rulemaking. While the schedule requires some calculation to determine the fee paid the Bureau, the benefits of such a schedule outweigh the burdens, and it is more acceptable than the alternatives. The fees each commercial outfitter will pay provide a fair and equitable return for the privilege of using Federal resources for commercial purposes. The fee schedule proposed was carefully crafted after extensive consultation with a special committee from the outfitter and guide industry, and officials of the U.S. Forest Service, who have adopted the same schedule.

(2) Competitive Use

Several comments argued that $2.00 per user day or 3 percent of the gross receipts for competitive events would be inflationary and more than some individuals or recreation organizations could pay. The increases are designed to allow the Bureau to recover a greater portion of its costs. Fees have not been increased, except in certain localities, since 1972. The fee for competitive use remains at $2.00 or 3 percent of the gross receipts, whichever is greater, so that the fee can be related to the cost of issuing and monitoring the permit and the value of the resource to users.

(3) Other Uses.

Several comments said that the $2.00 per user day fee paid by private recreationists would in some cases be greater than the fees paid by some commercial outfitters. This is true. As explained earlier in this preamble, the fees charged for non-commercial uses are intended to recover the costs of issuing and administering the permits. It would be impossible to charge daily fees for non-commercial users equal to or less than the amount paid by all commercial outfitters and still cover the cost of administering the permit program. The proposed non-commercial fee was based on the Bureau-wide average of the costs of issuing permits and administering the program. A comparison of this average cost with the average fee paid by commercial permittees reflects a lower fee to non-commercial users.

Since the time the proposed rulemaking was published, some of our field offices have initiated a non-commercial fee as authorized by existing regulations. Based on this experience and after considering the comments on the proposed rulemaking it has been determined that the fee for non-commercial permits should be reduced to $1.50 per user day. This is a reasonable proportion of the average fee charged commercial permittees. In most cases this fee will be less than the commercial fee and still cover the cost of administering the permit program.

One comment said that recreation fees charged by all Federal agencies should be the same. While all the fees adopted are not identical with those of other land-managing agencies, they are comparable, and differ only because of differences in management requirements of the several agencies. Neither the Forest Service nor the National Park Service objected to the proposed fee schedule. The commercial fee schedule is identical to that proposed by the Forest Service.

In some particular cases the fee schedule may be adjusted to accommodate joint management agreements with other agencies. In these cases a required permit may be issued jointly or separately by the agencies involved. When issued jointly, one fee will be charged and revenues split accordingly between the agencies. When separate permits are issued by more than one agency, it is intended that the combined fees charged would be no more than the amount that would have been charged for the entire permitted activity by the agency having the higher fee.

One comment said it was confusing for the Bureau to use the term "user day" instead of the term "service day" employed by the Forest Service to mean the same thing. The term "user day" is more appropriate for use on the public lands than "service day" because it does not imply that permit fees are based on services provided by the Bureau of Land Management.

Several comments suggested that permit fees should be allocated to the benefit of the same area from which they were collected. The Department of the Interior Appropriation Act for fiscal year 1981 requires revenues from recreation fees to be deposited in the general fund of the Land and Water Conservation Fund instead of a special separate fund provided under section 4(f) of the Land and Water Conservation Fund Act. Prior to the FY 1981 Appropriation Act the revenues in the special account were available for appropriation, without prejudice to appropriations from other sources for the same purposes, for any authorized

outdoor recreation function of the Bureau of Land Management. Now revenues cannot be earmarked to support the activities that generated them, but are available only by general appropriation from the Land and Water Conservation Fund.

After considering all the comments on the proposed special recreation permit fees, the following revised schedule has been adopted. It states the fees that are required for special recreation uses of public lands administered by the Bureau of Land Management in accordance with 43 CFR 8372.4(a)(1). This fee schedule will be phased in over a 3-year period beginning in 1984. This schedule was also published in the Federal Register on February 10, 1984 (49 FR 5300), as part of the final special recreation permit policy. The fee schedule was effective February 10, 1984. Allowances for proportional fees may be made, based on use of other lands along with public lands. Exceptions to the fees listed below may be granted by written order from the Director.

(1) *Commercial use*—$100 for the term of the permit or the amount from the table below per participant, whichever is greater, is required. In determining the adjusted daily charge, the authorized officer will recognize that operators may, under certain circumstances, adjust their advertised customer rates, or that certain associated customer charges may be deducted from the daily amount charged participants. Deductions may be limited to off-site transportation and lodging expenses either before or after the associated permitted use, or fees paid to others for services off public lands. Documentation of the basis for adjusted customer rates may be required by the authorized officer.

Adjusted daily charge collected by permittee from each participant	Fee paid to the Bureau per user day		
	Feb. 10, 1984	Jan. 1, 1985	Jan. 1, 1986
$3.00 or less	$0.25	$0.25	$0.25
$3.01 to $20.00	.30	.35	.40
$20.01 to $35.00	.45	.60	.80
$35.01 to $50.00	.60	.95	1.30
$50.01 to $75.00	.80	1.35	1.90
$75.01 to $100.00	1.05	1.80	2.60
$100.01 to $125.00	1.30	2.35	3.40
$125.01 to $150.00	1.50	2.90	4.10
$150.01 to $175.00	1.80	3.30	4.90
$175.01 to $200.00	2.00	3.80	5.60
$200.01 to $250.00	2.40	4.55	6.75
$250.01 to $300.00	2.90	5.55	8.25
Over $300.00	(1)	(1)	(1)

(1) 1 percent of adjusted daily charge per participant.
(2) 2 percent of adjusted daily charge per participant.
(3) 3 percent of adjusted daily charge per participant.

(2) *Competitive use*—$2.00 per user day or 3 percent of the gross receipts, whichever is greater, is required. When use is both commercial and competitive, the competitive fee shall be charged. Gross receipts include total income which has been generated from the permitted activity before deducting costs such as insurance, prizes, other permit or license fees, etc. Gross receipts would also include total supplemental moneys collected through sponsor contributions, other donations, the sale of clothing, specialized equipment, or food and beverages when sold on an incidental basis at the permitted activity.

(3) *Other uses*—$1.50 per user day for uses other than commercial or competitive events, uses involving more than 50 vehicles including those of participants and spectators, or uses taking place in special areas for which permits are required.

Section 8372.0–5 Definitions

The definition section of the proposed rulemaking was the subject of a number of comments. The definitions used in the proposed rulemaking have been carefully reviewed in an effort to simplify and clarify the defined terms. Comments requested that definitions be added in the final rulemaking for the following terms: "user day," "gross receipts," "actual cost" and "adjusted daily charge." The term "user day" is defined in the existing regulations at 43 CFR 8372.0–5(h). A definition for the term "actual costs" is not necessary. When actual costs are imposed under § 8372.4(a)(2), the user will have an opportunity to review an itemization of the costs. The other two terms, "gross receipts" and "adjusted daily charge", are not referred to in the regulations, but rather in the fee schedule included in the preamble of the proposed rulemaking. Explanations of these terms have been included in the discussion of the fee schedule in this preamble.

One comment recommended that the definition of "special area" in the existing regulations at § 8372.0–5(g) be amended so that special areas would include areas where control measures are necessary for the protection of public health, safety or the environment. This change does not need to be included in the final rulemaking because the existing definition includes areas deemed to require special management and control measures for their protection, and the regulations at 43 CFR 8364.1(a) permit the authorized officer to close or restrict access to areas for human health or safety reasons. There is no need to include that concept in the definition of "special area" and no justification for requiring a permit or charging a fee to enter such restricted or closed areas.

One comment suggested that "educational use" is too narrowly defined, that it should include more than just accredited institutions of learning. The suggestion is not adopted. It would be unnecessarily burdensome and expensive for the Bureau to review a multitude of exemption requests from a variety of entities without a readily applicable standard for educational use. The requirement that the applicant be an accredited institution of learning provides an administratively convenient standard. A broader definition would also be subject to varying interpretations in different offices of the Bureau.

Section 8372.0–7 Enforcement

One comment opposed any regulation of recreation on public lands. However, some regulation of recreation on public lands is necessary to protect persons and property, to maintain their comfort and well being, and to protect resources. Access to certain special areas is controlled to prevent overcrowding and degradation of the recreational and environmental resources present. Several other commenters supported the enforcement provisions of the proposed rulemaking, but suggested that the enforcement authority be extended to prevent off-road vehicle users from interfering with livestock grazing and to control the behavior of spectators as well as recreational event participants. These concerns are addressed in the grazing regulations (43 CFR Part 4100) and in the rules of conduct (43 CFR Part 8360).

Several comments objected to the provisions in § 8372.0–7(a) (3) and (4), which, respectively, prohibit knowing participation in an event or use for which a permit is required but has not been issued, and prohibit the permit holder from failing to place a copy of it where all participants may read it. These two provisions have been adopted as proposed. Individual participants will be held co-responsible with the sponsor-organizer of an unauthorized event only where the government can prove that individual's guilty intent. As for posting the permit, the rulemaking contemplates that it will be posted at the staging area of each activity or at some other reasonable place where participants can see it. This is necessary so that participants may be assured the event is legal, but it does not require the permit to be visible to participants at all times during the event, as one comment suggested.

One comment suggested that the permittee should carry a copy of the permit at all times during the

recreational use and present it to Bureau of Land Management officials upon request. This suggestion has been adopted in the final rulemaking.

Section 8372.0–7 Penalties

Several comments addressed the Penalties section, § 8372.0–7(b), urging that penalties be increased, and that penalties be levied for environmental degradation by permit holders. Penalties are set by section 303 of the Federal Land Policy and Management Act (43 U.S.C. 1733), and violation of environmental stipulations made under 43 CFR 8372.5(b) will be subject to penalty under section 303.

One comment questioned whether permit holders as well as unauthorized users will be subject to civil suit. A provision to this effect has been adopted in the final rulemaking, and permittees may be civilly liable for permit or regulations violations.

Section 8372.1–3 Exceptions

Several comments addressed § 8372.1–3(a), which exempts Bureau of Land Management sponsored or cosponsored events from permit requirements. One opposed this provision as too broad, allowing Bureau personnel to play favorites with outfitters. However, it would be counterproductive, burdensome and unnecessary for the Bureau to obtain a permit in order to use or sponsor use of the public lands. Any alleged abuse that might occur could be challenged by appeal, or even called to the attention of the Inspector General of the Department of the Interior. The subsection has been adopted as proposed.

Two comments suggested, respectively, that recreation permit fees should be waived for groups performing volunteer work on the public lands and for nonprofit groups conducting events to benefit charitable causes or institutions. Volunteer workdrips would normally be sponsored or cosponsored by the Bureau of Land Management, and would therefore be exempted from the permit requirement by § 8372.1–3(a). However, there is no authority in Departmental regulations or law for general exemptions for volunteers or nonprofit groups. The authorized officer will evaluate requests for such exemptions on a case-by-case basis.

One comment asked for a separate fee and permit category for recreational users that do not fit readily into the fee schedule in this rulemaking, such as local government entities that run outings. The suggestion has not been accepted in the final rulemaking because 4 permit categories can accommodate all uses requiring a special recreation permit. The fees are not excessive, and there is no authority for fee waivers for local government entities.

Several comments questioned the provision in § 8372.1–3(b) of the proposed rulemaking, which allows exemption from permit requirements for events affecting less than one mile of public lands and not threatening resource damage. The objection to the provision was that one mile may be an arbitrary figure. This exemption has been in effect since 1978 and has worked well. It gives the authorized officer discretion to require a permit and fee if significant damage will occur, regardless of the small acreage affected, and will continue to provide for a fair return for the use of public land resources. This provision applies also to all river use, so that permit and fee requirements may be effective for river segments adjacent to more than one shoreline mile of public lands. This clarification has been made in the final rulemaking.

One comment stated that, in some areas, it may be necessary to provide a special exception to the permit requirements when scattered small tracts of public lands are involved and recreational use affects land owned or administered by a variety of agencies or entities. The Bureau manual and other directives of the Bureau of Land Management are the appropriate vehicles for instructing field personnel in how to deal with "checkerboard" landownership areas in implementing these regulations. Allowance for proportional use may be made, based on use of other land along with public lands, and exceptions to the fee schedule may be granted by written order from the Director.

Numerous comments addressed § 8372.1–3(c) of the proposed rulemaking, which allows the authorized officer to waive permit and fee requirements for non-commercial, competitive, off-road vehicle events with no cash prizes, no public advertising and involving fewer than 50 vehicles. These comments were of three general categories: opposition to a permit requirement for competitive off-road vehicle events of any size, questions whether permits and fees apply to other sorts of events, and requests that the threshold number of vehicles be lowered, so that events featuring more than 10 vehicles (or some other similarly low number) would be subject to permit and fee requirements.

Competitive off-road vehicle events require a permit primarily to assure that environmental resources will not be adversely affected. There is no need to lower the threshold, because the authorized officer has discretion to require permits and fees for all competitive events with fewer than 50 vehicles if circumstances require. However, § 8372.1–3(c) has been amended to add a condition that there be no likelihood of significant damage to the resources or need for monitoring. This section of the rulemaking has also been amended to apply the 50 vehicle limitation to other kinds of competitive events, where vehicles are used to get to the event site on public lands, even if the vehicles are not used in the event itself, and to include spectators' vehicles in the limitation. The 50 vehicle limitation has been retained in the regulations. Although there are no standard criteria to quantify this or any number, it represents a reasonable figure, justifiable from past experience. Standard criteria, applicable to the wide variety of landscape types where events could occur on public lands, would be inappropriate.

One comment urged that fees be waived if an Environmental Assessment has determined that there is no significant environmental impact expected from the event. As stated above, the fee schedule is not designed to compensate for environmental impacts, but rather to pay administrative costs and, in the cases of commercial and competitive use, to recover fair value for the use of public land resources.

One comment urged that a filled quota of long term recreation permits for a given area should not alone bar approval of an application for a one-time-only use. The suggestion has not been included in the final rulemaking. Quotas or allocations in specific areas are determined through the land management planning process and are established as the maximum allowable use an area can sustain and meet the prescribed resource management objectives. Therefore, use above this level would not be consistent with the adopted management plan. The authorized officer retains discretion to allow such one-time-only uses if circumstances, such as underuse by a permit holder, or cancellation of scheduled use, allow such use.

Section 8372.4 Fees

Several comments questioned whether it was intended to remove from the regulations the provision in existing § 8372.4 for a $10.00 filing fee. This provision has been removed in this rulemaking. The filing fee requirement has been replaced by the $100 minimum

permit fee requirement for commercial permits contained in the fee schedule.

Many comments objected to the provision in § 8372.4(a)(2) of the proposed rulemaking, which would allow the authorized officer to charge fees higher than those in the fee schedule under certain circumstances. They feared the authorized officer could indiscriminately raise fees. This provision has been removed in the final rulemaking. While the fee schedule may not allow some Bureau offices to recover the entire administrative costs of issuing permits, these instances will be few and on a Bureau-wide average will even out. If circumstances require, exceptions to the fee schedule may be granted by the Director as provided in § 8372.4.

Other comments objected to the provision in § 8372.4(a)(3), which would allow the authorized officer to require a non-refundable advance payment of part or all of the fee. In the proposed rulemaking, this provision had two purposes: to recover the costs of processing the application, and to discourage users from failing to appear for their appointed reservation. Failure to appear without notice may make the allocated resource unavailable to other possible users. In response to the comments, and to clarify this intent, paragraph (3) has been revised and relocated as subparagraph (2) in redesignated § 8372.4(b), which describes the procedures for payment of use fees. Revised paragraph 8372.4(b)(2) requires use fees to be nonrefundable where the amount of intended use is precisely specified in the application, except when notification of whole or partial cancellation is made in sufficient time to allow reallocation of use to others. This paragraph also states that, in the discretion of the authorized officer, such refunds are subject to a minimum fee for processing the permits.

Several comments addressed § 8372.4(a)(4), which provides for the collection of actual costs to the United States instead of the fees, when the estimated costs of permit issuance and monitoring exceed $5,000. One comment suggested that the deadline for notification of the applicant that actual costs will be required be extended from 15 to 30 days after receipt of the application. This suggestion has been adopted in the final rulemaking. However, a suggestion that permittees be allowed to substitute the value of work done that is incidental to their recreation use (removal of litter, and repair of trail damage, left by others, for example) for the fees or actual costs paid to the United States has been rejected. Permittees are responsible for their own litter and trail damage as a permit stipulation or condition. This is necessary to mitigate adverse impacts to environmental resources. Any additional work that a permittee may perform is strictly on a volunteer basis and will not normally reduce the fees due the Government. Commercial permittees may perform such work to make the recreational experience more attractive to their customers. However, there may be specific instances where the authorized officer may waive permit and fee requirements under the criteria of § 8372.1–3. Requests for exemption will be evaluated on a case-by-case basis.

Several comments addressed § 8372.4(c) of the proposed rulemaking, which gives the authorized officer discretion to require applicants for waiver of fees to provide documentation of their official recognition as educational or scientific institutions. One comment supported the provision as proposed, but others suggested that the waiver provision be extended to non-profit organizations, or that temporary use permits be issued instead of recreation permits because the use is not primarily recreational. These suggestions have not been adopted because the rulemaking is intended to parallel the Departmental regulations at 36 CFR Part 71, which allows waivers only for scientific and educational uses and does not provide for temporary use permits for such uses.

Section 8372.6 Appeals

Two comments discussed the provision in § 8372.5(b) that decisions of the authorized officer shall remain effective pending appeal unless the Secretary of the Interior rules otherwise—one in support, one in opposition. The provision for permit decisions to remain effective pending appeal is necessary to prevent frivolous appeals from impairing authorized and legitimate use of the public lands. A provision has been added to allow an aggrieved party believing that he or she is adversely affected by the decision, or that harm to public lands or resources may occur, to petition the Secretary for a stay of the decision pending appeal. The suggestion in one of the comments that decisions granting or denying such stays be made by the Interior Board of Land Appeals instead of the Secretary is rejected. The Secretary is better able to make the prompt decisions that may be necessary to prevent harm to the parties.

One other comment, not addressing any specific section of the proposed rulemaking, requested clarification of the term "public lands" as used in this rulemaking. For purposes of this subpart, "public lands" means any land or interest in land administered by the Bureau of Land Management, and waters related thereto. Where appropriate, the rulemaking has been amended to reflect this meaning.

The principal author of this final rulemaking is Bruce R. Brown, Division of Recreation, Cultural and Wilderness Resources, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that the publication of this final rulemaking is not a major Federal action significantly affecting the quality of the human environment and that a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Several comments challenged these determinations in the proposed rulemaking, stating that there will be a major financial impact on recreation users who will be required to pay fees and on outfitters and guides who will be required to pay a portion of their adjusted daily charges. However, the criterion in Executive Order 12291 for determining whether a rule is major is whether its total annual impact will be $100,000,000 or not. In this case, the financial impact of the final rulemaking will be less than that amount. In addition, while the price of permit fees will be increased, the fees will be phased in over a 3-year period.

The final rulemaking will only affect individuals and groups using the public lands and related waters under the circumstances and for the recreation purposes discussed above, and educational institutions using the public lands and related waters for educational or scientific purposes. The increase in fees will compensate the United States for administering the program, with no significant impact on any entity.

Information collection requirements contained in this rulemaking have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, and assigned clearance number 1004–0119.

List of Subjects in 43 CFR Part 8370

Public land—recreation, Recreation areas, Surety bonds.

§ 8372.6 Appeals.

(a) Any person adversely affected by a decision of the authorized officer under this part may appeal under Part 4 of this title from any final decision of the authorized officer.

(b) All decisions of the authorized officer under this part shall remain effective pending appeal unless the Secretary rules otherwise. Petitions for stay of decisions may be made to the Secretary.

[FR Doc. 84-22879 Filed 8-28-84; 8:45 am]
BILLING CODE 4310-84-M

APPENDIX K

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 291

Occupancy and Use of Sites and Areas of Concentrated Public Use

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture proposes regulations to recover Federal costs associated with administration of user reservation systems on some National Forest System recreation areas. This action is necessary to continue protection of resources and protection of high quality recreation experience.

DATE: Comments must be received by January 14, 1985.

ADDRESS: Comments should be sent to: R. Max Peterson, Chief (2350), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Thomas P. Lennon, Recreation Management, telephone (202) 447-2311.

SUPPLEMENTARY INFORMATION: Some National Forest System recreation areas, such as Wilderness Areas and Wild and Scenic Rivers, are highly popular and have reached their recreation use capacity. In such cases, the Forest Service has instituted reservation or permit systems to protect the resources, to provide prospective recreationists with the assurance that they will be able to use an area during a given period, and to maintain the opportunity for visitors to have a high quality recreation experience.

Forest Service costs for administration of reservation systems have risen sharply over the last several years. In one case, the costs on a Wild and Scenic River are $35,000 to $40,000 a year.

Because issuance of a reservation is a special service which primarily benefits the user, the Agency is proposing to revise its regulations to permit recovery of Federal costs associated with this service.

Examples of conditions which may warrant limitations of use and the collection of reservation fees are those where substantial numbers of people are using an area, the recreation use capacity of the area is being reached, or the costs of the permit reservation system are significant.

Under the proposed rule, fee levels will be based upon anticipated costs. Precise cost information for potential areas is not available at this time, but experience on a few sites would indicate a fee range of $2.00 to $8.00. Fees would be nonrefundable. Areas subject to a fee would be posted.

The rule on reservation fees would be coded as a new section 291.10.

This proposed rule has been reviewed under proposed USDA procedures and Executive Order 12291, and it has been determined that the regulation is not a major rule. It will result in an insignificant increase in costs to individual users of the recreation areas while permitting the Government to recoup administrative expenses. Because the regulation applies to individual recreation users in a limited situation, it will not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in foreign markets.

The Assistant Secretary of Agriculture for Natural Resources and the Environment has determined this action will not have a significant economic impact on a substantial number of small entities. The action involves a recovery cost for providing benefits to private individuals and will not affect small entities.

This rule is determined to be limited in context and intensity and to produce little or no environmental effects, individually or cumulatively, to either the biological or physical component of the human environment. Therefore, it is unnecessary to prepare an environmental assessment or an environmental impact statement.

Lists of Subjects in 36 CFR Part 291

Recreation and recreation area.

PART 291—[AMENDED]

Therefore, for the reasons set forth above, Part 291 of Chapter II of Title 36 of the Code of Federal Regulations is proposed to be amended as follows:

1. Revise the authority citation to read as follows:

Authority: 30 Stat. 35, as amended (16 U.S.C. 551); Sec. 1, 33 Stat. 628 (16 U.S.C. 472); Sec. 4(b,c) Pub.L. 92-347, 86 Stat. 460 (16 U.S.C. 460 *l*-6a(b,c)); Sec. 10(d), Pub.L. 90-542, 82 Stat. 916 (16 U.S.C. 1281(d)); Sec. 7(i), Pub.L. 90-543, 82 Stat. 925, as amended (16 U.S.C. 1246(i)); Sec. 4(b), Pub.L. 88-577, 78 Stat. 893 (16 U.S.C. 1133(b)); Sec. 4(a), Pub.L. 95-495, 92 Stat. 1650.

2. Add a new § 291.10 to read as follows:

§ 291.10 Reservation fees.

(a) The Forest Service may charge fees to recover expenses incurred in providing reservation and other special services for the public use of recreation areas where limitations on use are deemed necessary or desirable to achieve the management purposes of an area of the National Forest System. The Chief of the Forest Service or his delegate shall establish the amount of such fees.

(b) Forest Service officials shall prominently post clear notice that a reservation fee has been established at each area and at appropriate locations therein. Publications distributed at such areas shall also include such notice.

Dated: September 25, 1984.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

[FR Doc. 84-29954 Filed 11-14-84; 8:45 am]

BILLING CODE 3410-11-M

APPENDIX L

FORUM

I HATE RIVER PERMITS

Well, I just had my annual dose of Snake River venom and feel like sharing some ideas and thoughts about the Snake River Permit System and other systems in general.

Yesterday, February 2nd, was the day of the annual "call the Snake River and try and get a river permit for the same time that my vacation is scheduled" BS! So, I did. I left my warm bed and smiling bride early in the morning and started calling that magical number, once every 30 seconds, for hours. (Thank heavens I did not have to work...but, what happens to all those folks that do have to work on this day?). After more than 2-1/2 hours and 360 phone calls, I had to give up on the concentrated effort, although I continued to call intermittently throughout the day. I finally got through at 10 a.m. the second day only to find that there were not any dates available when I can take my vacation.

Several weeks ago I went through the motions of applying for a permit on the Selway, Main stem of the Salmon, Middle Fork of the Salmon and the Rogue River. My calendar also tells me this is the month to apply for a permit on the Colorado and its Grand Canyon. All of these systems are different--some allow you to ask for only one put-in date while others allow you to indicate up to four days--some allow an alternate trip leader to be listed while others do not--some require you to indicate party size and others do not--some require you to list up to 30 participants and others do not--all but one regulate the number of launches per day rather than the number of people per day, which is really more meaningful--and only one of these systems puts your name on a waiting list so that at least you know you will get a permit some day.

All of these systems have the common goal of maintaining an acceptable use level and not harm the river's ecological system and not destroy it. This goal, I whole-heartedly support, as I am sure all river runners or users do. What I do not support and, again, I am sure most users feel the same way, is the confusion of these various permit systems.

Copied from Northwest Rafters Assoc. (NWRA) newsletter.
Vol. 3, No. 12, March, 1985

I&I Plan
BWCA
Automated Reservation System and Reservation Fee Implementation

Situation: Equipment and programming to implement an Automated Reservation System (ARS) has been purchased. The system will be in place in time for the reservation season, beginning February 1, 1982. In addition, it has been decided to begin charging a five dollar ($5.00) fee for taking overnight reservations, beginning on February 1st.

Both of these will require some changes in operation, which will affect the public as well as the canoe outfitting businesses.

The beginning date for accepting reservations has been changed from January 2nd to February 1st.

Objectives/Goals

1. Inform the public and outfitters of the changes so they will be better served when they apply for BWCA reservations.

2. Minimize administration costs and donfusion of the changeover. Avoid an influx of reservation requests before the season, avoid receiving requests with incomplete information or without money enclosed, and to lessen the paperwork impact on our employees.

Concerns

1. The public may be misinformed, causing unfavorable reactions.

2. We may receive a large number of incomplete reservation requests, or requests without money.

3. We may receive a rash of phone calls requesting reservations, information, etc, that we may not be able to handle.

4. The public may forfeit some portion of available use capacity because of incomplete information or other confusion in the processing.

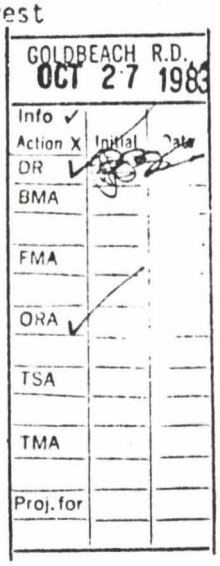
ACTION PLAN

Task	Who to Contact	How to Contact	Who Will Do	Accomplish By
1. Fact Sheet	Rec. Mailing List	Mail	C. Anderson	January 4
2. News Releases a. Mini-news Release b. Full scale descrip. of Reservation Program. c. Reminder Release	General Public Cooperators, Friends of BWCA, Canoe Assoc. Magazines	News Media	T. Sober A. Wolter Ed Cnare - R.O.	a. December 18 b. December 30 c. January 25
3. National News Release	Outdoor Writers Outdoor Editors Periodical Publishers	Mail	Al Wolter Ed Cnare - R.O.	December 30
4. Information Sheet and Application Forms (Similar to brochure in #5, but in-house produced)	General Public (i.e., Sporting Goods Stores, Youth Organizations, Church Youth Groups, etc.)	Mail or Hand Carry	T. Sober G. Coyle will handle stores in Twin Cities.	December 23
5. Brochure	General Public	Mail - Hand-out	T. Sober A. Wolter	To R.O. by December 28. Need for public distribution January 15.
6. In-service Information and Training	S.O. and District Clerks, Receptionists, and Technicians	Training Sessions & Circulate Minutes of Meetings	Rangers, T. Sober, B. Soderberg, & Nouska	Continuing

APPENDIX N

Siskiyou
National
Forest

200 NE Greenfield Road
P.O. Box 440
Grants Pass, OR 97526



2300 & 1510

October 26, 1983

Honorable Robert F. Smith
118 Cannon Office Building
Washington, D.C. 20515

Dear Bob:

There has been some discussion here in Oregon about an application fee for noncommercial rafting use in the Wild Section of the Rogue River. To keep you up-to-date on the River's management, I would like to give you the background on this direction.

For the past few years the Forest Service and the BLM have been reviewing the fees charged outfitters and guides for conducting business on Federal land. As a result of these studies, those outfitters and guides operating in the Wild Section of the Rogue River were notified that their permit fees would increase. This decision was appealed to the Interior Board of Land Appeals. In their appeal, the Rogue River Outfitters Association stated that if their fees were to go up, the noncommercial floaters should also pay a fee. In their review, the IBLA upheld the fee increase for the commercial outfitters. They also directed the Bureau to charge for noncommercial use.

As the Forest Service and the BLM share Federal administration responsibility of the Wild Section of the Rogue River, the IBLA decision and direction prompted a great deal of internal discussion: who, when, how, how much, etc.

In a thorough review of the alternative courses of action, we identified that:

- The Wild and Scenic Rivers Act and the Rogue River Management Plan required that we maintain the Wild Section as vestiges of primitive America.

- The maximum use level of 120 people per day entering the Wild Section was necessary to maintain that condition.

- The presently operating lottery system for selecting successful applicants was fair, impartial and needed.

- The cost of the lottery system, for both the Forest Service and the BLM, totals about $42,000 per year.

- As stated above, the BLM had been directed by the IBLA to implement a charge system in 1984.

- Section 4 of the Land and Water Conservation Fund Act gave authority to collect a fee to recover application processing cost.

Therefore, Forest Service Chief R. Max Peterson directed that we coordinate such a fee collection with the BLM. At this time we are developing alternatives for implementing this system in 1984. Being examined are: when the fee will be collected during the application/permit system, how the fee will be levied, and how much it will be. The Regional Forester has not made a decision regarding these alternatives, but one is anticipated in the near future.

Hopefully, the preceding gave you the background and our direction in this matter. Should you have any questions or observations, I would be happy to hear from you.

Sincerely,

TED C. STUBBLEFIELD

TED STUBBLEFIELD
Acting Forest Supervisor

cc: Leigh Johnson
1150 Crater Lake Ave, Suite K
Medford, OR 97501

BLM (Dick Schwab)
3040 Biddle Road
Medford, OR 97501

RO (Dave Scott)

Gold Beach RD (Pete Brost)

WBOlney/clo

NORTH WEST RAFTERS ASSOCIATION

NWRA

APPENDIX O

P.O. Box 19008 Portland, Oregon 97219

Al Ainsworth
Chairman of the Board
10345 SW Ridgeview Lane
Portland, Oregon 972[illegible]
503-246-0386

ACTION DISTRIB
Supv.
Secretary
T.M.
A.O.
Land-Rec.
Engr.
Fire
W.S.-Soils
Forest Plan
SISKIYO
JAN 22
Law Enf.
P.I.O.
Receptionist
B & F
Personl
Resrce
Suppt. Serv.
Cont'g
Purch'g
Computer Svc.
Rd. Develop.
Rd. Mgmt.

Dave Scott
Director of Recreation
U.S. Forest Service
P. O. Box 3623
Portland, Oregon 97208

Dear Mr. Scott:

The NorthWest Rafters Association, a group of river enthusiasts numbering more than 500 with chapters in Portland, Salem, Bend, Eugene-Springfield and Medford, feels the system used on the Rogue this past year was equitable and feels the current proposals by the Forest Service to charge for use of National Forest Recreations Areas and for a reservation service would be workable with the general public.

Use of the Rogue River declined again in 1984, however, access improved two-fold, directly attributed to the reservation fee charged when applying for a permit. The use fee helped defray the cost of the river's management.

The NWRA suggests the fees remain minimal: $2 for filing a permit and $5 when using the resource.

Please forward comments to R. Max Peterson, Chief of the Forest Service.

Sincerely
Al Ainsworth

[illegible] RD.
JAN 29 1985

TMA
TMA
Proj. for

F.S. R-6
RECEIVED
JAN 1 1985
RECREATION

APPENDIX P

1/12/82

Collection Activities for ERCA Reservation Fees

Collection of money is not new to the Forest Service or to the Superior National Forest. Timber Sale Deposits, Special Use Fees, Campground Collections, etc. have been collected for years. Thus there are quite a few written rules and regulations regarding collection and safeguarding of government funds.

However, the business of collecting for reservation fees is new and as such new problems and actions may arise. We cannot anticipate all of these new problems and will have to deal with them as they occur. In the meantime here are some random guides on the subject as we view them today.

1- All Collection Officers are to be designated in writing. The recommendation comes from the District Ranger but the designation is made by the Administrative Officer acting for the Forest Supervisor.

2- Collection Officers should have access to and review FSH 6509.14, Collection Officer Handbook. This identifies the Forest Service policy in connection with Collection Officers activities and sets responsibilities and procedures for each Collection Officer.

3- Reservation fees will be received by cash, check, or money order. Checks or money orders should be no problem as they can be batched and submitted with a Bill for Collection, Form 6500-89 and sent to Mary Kopel-Anderson our Unit Collection Clerk. Cash presents a problem since it must be converted to a postal or bank money order. This will create some extra time frames, and safeguarding needs. In either case the following frequency of transmittal should be followed.

a. Daily regardless of amount when appreciable extra travel or effort is not involved.

b. Each day that collections are $1,000 or more.

c. At least once a week regardless of amount accumulated.

d. Always on one of Collection Officers last 3 workdays of the month.

4- We suggest only a few people be responsible for transmitting to S.O. as folders need to be maintained at both offices.

5- All firm reservation fees are to be deposited to management code 899029

6- Advance deposits from Cooperators are to be held in a special fund and periodically transferred to fee account. Use Management Code 897XXX where XXX is the Cooperators Number (e.g. Cooperator number 52 would be shown as 897052; Cooperators number 124 would be shown as 897124). Cooperators should be billed in advance by the District with a minimum deposit of $200.

7- Refunding of receipts because reservations cannot be made creates some special problems.

a. Cash. Convert to bank or postal money order and return.

b. Check or Money Order. If for exact amount of refund due, simply return the check or money order. If the check or money order is for more than one reservation and some of it is useable there are two options with the first one preferred.

(1) Deposit full amount of check or Money Order and refund amount due by converting any cash on hand to a money order.

(2) Deposit full amount of check or Money Order. Notify B & F to make a refund by completing form SF 1049, Public Voucher for Refunds. Depositor would receive refund in about 3 weeks.

8- Reservation fee receipts should not be reduced by fees for money orders. In other words, deposits should be exactly in $5 increments. Money order fees should be charged to project funds (wilderness administration or permit issuance) and reimbursed through imprest fund.

APPENDIX Q

RESERVATION APPLICATION

NAME OF PARTY LEADER: _____ TODAY'S DATE: _____

ADDRESS: _____ DESIRED ENTRY POINT: _____
Street & Number

_____ _____ _____ DESIRED STARTING DATE: _____
City State Zip

ALTERNATE PARTY LEADER: _____

METHOD OF TRAVEL: ___ Hiking ___ Motorboat ___ Motor Canoe ___ Paddle Canoe TYPE OF PERMIT: ___ Day Trip ___ Over-Night

ESTIMATED PARTY SIZE: _____

Include $5.00 check or money order made payable to "FOREST SERVICE, USDA" for all overnight reservations. DO NOT SEND CASH.

Information above this line is required, items below may be helpful.

ALTERNATE ENTRY POINT: _____ ALTERNATE STARTING DATE: _____

Other members of party who may need to pick up permit if leader or alternate absent: _____ _____

NOTE: BE SURE OF YOUR PLANS BEFORE MAILING IN THIS REQUEST. ANY CHANGE IS CONSIDERED A NEW RESERVATION REQUIRING AN ADDITIONAL SERVICE FEE OF $5.00.

(Only persons listed on this application may pick up permit. Identification will be required.)

APPENDIX R

To: FSR1-OI, FSR2-RF, FSR3-OI, FSR4-OI, FS Regional Forester FSR-5
To: FSR6-OI
To: FSR8-OI, FSR9-OI, FS Regional Forester FSR-10
From: FSWO-LA
Date: FRI 15-JUN-84 11:07:36 edt

Subject: ATTN: OI DIRECTORS

"National Forest Recreation Use Fee Act of 1984"

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That this Act may be cited as

"The National Forest Recreation Use Fee Act of 1984."

Sec. 2(a) The purposes of this Act are to:

(1) Promote the availability, maintenance and use of high-quality recreation areas and facilities in the National Forest System for the use, enjoyment, and benefit of all Americans;

(2) Require that those persons using specialized recreation sites, facilities, equipment, or services in the National Forest System pay an appropriate share of the costs of providing and maintaining those recreation areas and facilities;

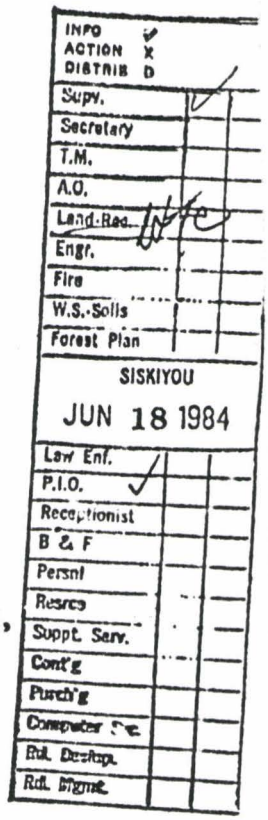
(3) Allow the Secretary of Agriculture to charge reasonable admission and user fees to those areas; and

(4) Increase the sources of funding for National Forest System recreation areas and facilities by using the revenue from fees generated by this Act to maintain, operate, and improve National Forest recreation areas and facilities.

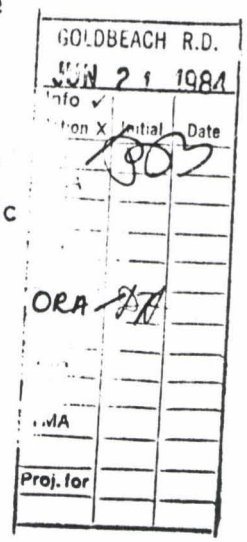
(b) Definition. As used in this Act, the term "Secretary" means the Secretary of Agriculture.

Sec. 3. Notwithstanding any other provisions of law, where specialized outdoor recreation sites, facilities, equipment, or services are provided at any location in the National Forest System, the Secretary may provide for the collection of recreation use fees.

Sec. 4. All fees established pursuant to this Act shall be fair and equitable taking into consideration the direct and indirect cost to the government of providing and maintaining recreation areas and facilities, the benefits to the recipient, the public policy or interest served, any comparable fees charged by the private sector or by nonfederal public agencies, the economic and administrative feasibility of fee collection and other pertinent factors. Notice that a recreation use fee has been established pursuant to this Act shall be posted at each area and at appropriate locations therein.



w/ attached. w/o encl.
cc G.B Dist



Sec. 5 Notwithstanding any other provisions of law, all revenues collected pursuant to this Act shall be credited to the appropriation bearing the cost of operation and maintenance for National Forest System recreation areas and facilities and shall be available, without prejudice to appropriations from other sources for the same purposes, for any authorized outdoor recreation function provided on the National Forest System and financed by the appropriation to which the collections are credited.

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